

1 * * * ROUGH DRAFT TRANSCRIPT * * *

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3 CASE NAME: STEED, et al. vs. EQUIFAX

4 WITNESS NAME: MICHAEL A. TURNER, Ph.D.

5 DATE OF DEPOSITION: Thursday, December 10, 2015

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1 PRESENT:

2

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7 BY: MR. ROBERT S. SOLA

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10 Appeared on behalf of the Plaintiffs;

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18 Appeared on behalf of the Defendant.

19

20

21

22

23 REPORTED BY: JENNIFER L. WIESCH, CSR, RPR, CRR

24 Certificate No. 84-4528.

1 (WHEREUPON, the witness was duly
2 sworn.)

3 MICHAEL A. TURNER, Ph.D.,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. SOLA:

8 Q. Please state your name.

9 A. Michael Turner.

10 Q. Mr. Turner, my name is Robert Sola. I
11 represent Charles Steed and Amy Summers, Plaintiffs
12 in this case. Do you understand we're here to take
13 your deposition?

14 A. Yes.

15 Q. Do you understand you're under oath?

16 A. Yes.

17 Q. There is a court reporter here and a
18 transcript will be made that can be used in the
19 trial or other proceedings. Do you understand that?

20 A. Yes.

21 Q. I'm going to be asking you some questions
22 today, and I want to be sure you understand the
23 questions. So if I ask you a question and you do
24 not understand it, will you ask me to clarify or

1 rephrase it?

2 A. Sure. Absolutely.

3 Q. If you do not ask me to clarify or
4 rephrase the question, then I'm going to assume that
5 you understood the question I asked and answered
6 that. Is that okay?

7 A. Yes.

8 Q. Are you on any medications or other
9 substances that would interfere with your ability to
10 testify today?

11 A. No.

12 Q. Now, am I correct that you've been hired
13 by Equifax to serve if deemed qualified as an expert
14 witness in this case?

15 A. I'm not sure if my agreement was with
16 Equifax or King & Spalding but yes.

17 Q. Okay. But you would be testifying on
18 behalf of Equifax, the Defendant, correct?

19 A. Yes.

20 Q. And you have prepared a report in this
21 case, is that right?

22 A. Yes.

23 Q. Okay. I've asked the court reporter to
24 mark that as Exhibit 1.

1 MR. SOLA: And I have a copy for you, Meryl,
2 if you need it.

3 MS. ROPER: Thank you.

4 (WHEREUPON, a certain document was
5 marked Turner Exhibit No. 1, for
6 identification.)

7 BY MR. SOLA:

8 Q. And can you identify Exhibit 1 as the
9 report you prepared in this case?

10 A. Yes. It appears to be a copy of the
11 report I prepared.

12 Q. Okay. Now if you go down to -- it's
13 actually the third page in, but it's the first page
14 of the report.

15 A. Okay.

16 Q. And then you see at the very bottom next
17 to number three, it says my opinions are as follows,
18 do you see that?

19 A. Yes.

20 Q. Okay. And then if we turn the page, we
21 see on the next two pages paragraphs four, five,
22 six, seven and eight. Well, four, five, six and
23 seven?

24 A. Yes.

1 Q. Those are opinions you have in this case,
2 is that right?

3 A. Yes, sir.

4 Q. All right. And those are all the
5 opinions you have in this case, is that correct?

6 A. Yes.

7 Q. And you're not offering any other
8 opinions in this case, correct?

9 A. No.

10 Q. Have you been deposed before?

11 A. Yes, I have.

12 Q. How many times?

13 A. I think this is my fourth time.

14 Q. And what were the occasions in which you
15 were deposed? Were they lawsuits?

16 A. They would have been lawsuits, yes.

17 Q. Okay. And who were the parties? Why
18 don't we start with the most recent one.

19 A. So the most recent one was Sony Pictures
20 Entertainment. It was the class action lawsuit
21 against them for the data breach involving the north
22 Korean military and so forth that got a lot of
23 publicity.

24 Q. Okay. And who was bringing that class

1 action?

2 A. The current and former employees of SPE.
3 Sorry, SPE being Sony Pictures Entertainment.

4 Q. Okay. And what was their claim?

5 A. Their claim was that Sony was negligent
6 in their data protection and security measures.

7 Q. And were you a witness on behalf of Sony?

8 A. I was.

9 Q. All right. And what was the general
10 subject of your testimony?

11 A. The extent to which the compromised data
12 could impact the punitive class from an economic or
13 credit perspective.

14 Q. All right. So it was solely as to harm,
15 would that be fair to say?

16 A. Yeah.

17 Q. Okay. And what was your opinion?

18 A. Most of the information that was released
19 had already been breached in the myriad previous
20 breaches as evidenced by the history of the named
21 plaintiffs themselves, and that the incremental risk
22 from that specific breach would be very difficult to
23 quantify but most likely would be negligible.

24 Q. And other than deposition, did you do any

1 other work in the case? Well, did you prepare a
2 report?

3 A. I did. I did a -- I guess I began with
4 an expert report but sort of morphed that into a
5 rebuttal report, because the experts for the
6 defendants had submitted their reports and had been
7 deposed, so I had a lot more information on which to
8 act.

9 Q. What year was this?

10 A. This was just a few months ago. And so I
11 did raise this with counsel yesterday. In reviewing
12 the materials submitted for my deposition, I noted
13 that there seems to have been a versioning issue on
14 my CV that I didn't have the Sony Pictures
15 Entertainment case as one of the cases in which I've
16 been deposed or testified. And that's the only one
17 that was omitted.

18 Q. All right. And you're --

19 A. And then also in reviewing the report, I
20 did find a few minor calculation errors; for
21 example, one on page, I think it's page 26 or 27,
22 where I talked about 10 percent of a FICA score and
23 I should have had the range. So instead of 85
24 points, it should be 55 points. So there are

1 changes that aren't of magnitude of order, they're
2 marginal. They don't affect any conclusions or the
3 direction of the findings.

4 Q. All right.

5 A. And I --

6 Q. You mean --

7 A. -- can -- I can --

8 Q. You mean --

9 A. -- either get you the corrections during
10 the break, I could write them, or I could -- I don't
11 know what the -- I'm not experienced at this, but
12 the -- whatever channel you'd prefer, I can submit
13 the errata to you.

14 Q. Okay. And we can address those.

15 And you mean in terms of the FICO score,
16 you mean because there's a range between 300 and
17 850 --

18 A. Yeah.

19 Q. -- and that would mean that the variance
20 could only be -- ten percent of that would be 55?

21 A. Right.

22 Q. All right. And you're referring to the
23 omission of this Sony case from your expert report.
24 Are you referring to Appendix B, page 32?

1 A. I believe that would be it, but let me
2 just confirm. Yes.

3 Q. All right. And then the other cases in
4 which you've given expert witness testimony are
5 listed in Appendix B on page 32, is that right?

6 A. Yeah, and again this is a versioning
7 issue. I think that one of my colleagues just sort
8 of cut and paste incorrectly. But the last two I
9 did not testify at or give -- or was deposed. Only
10 the IMS Health, both cases I was both deposed and
11 testified, and then Sony and then today. So four --
12 four instances where I would have been deposed or
13 testified and/or testified.

14 Q. All right. And I'm sorry, what year did
15 you say the Sony Pictures case was?

16 A. This year.

17 Q. 2015?

18 A. Yeah.

19 Q. All right. And then if we look at this
20 list, the -- it looks like the most recent case that
21 you have either submitted or testified is the one on
22 the bottom, October 2009?

23 A. No, that was -- that shouldn't be -- I
24 mean, you mean submitted like a report. I was asked

1 to provide -- my understanding was just cases where
2 I was either deposed and/or testified. And so those
3 two I was not -- I was neither deposed nor
4 testified. I submitted reports. But I mean there
5 would be a very different list. If it was
6 submitting reports versus being deposed and/or
7 testifying. So I've only been involved in four
8 cases in which I have been deposed or testified,
9 including this one. So the bottom two actually
10 should be stricken. And I should add SPE and that
11 would be actually the more accurate list.

12 Q. All right. So the bottom two you were
13 not deposed?

14 A. Correct.

15 Q. And you did not testify?

16 A. Correct.

17 Q. Okay. How about previous to the Sony
18 Pictures Case, a case where you were hired even if
19 you weren't deposed or testified as an expert
20 witness?

21 A. I could generate that list. I don't have
22 that with me, but yeah I've probably been involved
23 in maybe a dozen different cases over the years.

24 Q. And in those, have you submitted expert

1 reports?

2 A. Most of them, yeah. I think some were
3 settled before I completed a report. There was an
4 instance where I was asked to review the adequacy of
5 a proposed settlement, so, you know, there wasn't
6 really a report. There was more of an opinion, I
7 guess, of like an affidavit. Or I'm not really sure
8 what it was called, but yeah.

9 (WHEREUPON, a recess was had from
10 9:24 a.m. to 9:29 a.m.)

11 BY MR. SOLA:

12 Q. So you indicated that there are other
13 cases where you've been hired as an expert and some
14 you believe you prepared a report, others you may
15 not have, is that correct?

16 A. That's correct, yeah.

17 Q. And you agreed to provide a list of
18 those?

19 A. Yeah, we should have that before the next
20 break.

21 Q. Okay. What about cases where you've
22 testified in regard to credit reporting?

23 A. That would be the majority.

24 Q. Okay. And is there some subject that you

1 tend to testify on particularly?

2 A. I mean, broadly, I would think the data
3 accuracy and potential impacts from including or
4 excluding data elements or pieces of information
5 that are contained on an individual credit file.

6 Q. And have you been hired by Equifax in any
7 of those cases?

8 A. This, I think, is my first case I've ever
9 done with Equifax, yeah.

10 Q. Okay. How about TransUnion?

11 A. Yes, I've done some work with TransUnion.

12 Q. All right. And that includes this
13 Jackson case that's listed --

14 A. Correct.

15 Q. -- from Oregon?

16 A. Correct.

17 Q. And what other cases for TransUnion?

18 A. You know, I'll provide you the list. I
19 don't remember. I mean, this isn't a big part of
20 what I do, so -- and it's spread over ten or 15
21 years so, I mean, I don't really have an
22 encyclopedic command of the particulars of any of
23 these cases. But generally they've been plaintiff
24 alleging that a CRA has damaged their credit

1 standing going to some, you know, inclusion or
2 omission, and I'll examine the facts and offer an
3 opinion.

4 Q. All right. How about on behalf of
5 Experian, have you been a witness?

6 A. I think once, yeah.

7 Q. How about any other consumer reporting
8 agencies?

9 A. I don't think so, no.

10 Q. How about any data furnishers?

11 A. IMS Health, which is a data company, so
12 I've worked with them.

13 Q. Was that in a credit reporting case?

14 A. No, that was in a script data case. So
15 my organization deals with different aspects of
16 information and information policy, primarily, you
17 know, financial inclusion and credit but you know
18 other aspects of you know data privacy, data
19 security as well.

20 Q. Now, in these cases where you mention
21 that -- yeah, the consumer's bringing a claim, I
22 assume that's -- well, you said based on the
23 inclusion or omission of information, is that right?

24 A. Right.

1 Q. And then are most of those cases brought
2 where the consumer claims the credit report is
3 inaccurate?

4 A. Mostly, yeah, I would think that's fair,
5 yeah.

6 Q. And the consumer's claiming harm from
7 that, correct?

8 A. You know, I don't know. I mean, that's
9 sort of a -- sometimes it's a legal issue. I think
10 they're more about policy and procedure compliance
11 rather than harm. I mean, even in today's case, I
12 believe it's Steed isn't actually claiming any harm,
13 but is claiming a violation of the FCRA. So I don't
14 know that all of those cases involved allegations of
15 consumer harm. I think, you know, some did but some
16 didn't.

17 Q. Well, do you believe that the failure to
18 remove information that's inaccurate after it's been
19 disputed by a consumer is not harm?

20 MS. ROPER: Objection to the form, calls for
21 a legal opinion.

22 BY THE WITNESS:

23 A. I don't really know what you mean by harm
24 in this case. But the failure to exclude

1 information that's inaccurate after it's been
2 contested causes a harm. It may or may not. It
3 really depends on the circumstances and the behavior
4 of the individual and a lot of other variables, but
5 it's possible. But it's also possible there could
6 be no harm at all.

7 BY MR. SOLA:

8 Q. Okay. Can you give me an instance where
9 there'd be no harm at all?

10 A. Sure. We'll look at the case of hard
11 inquiries. If an individual has an inquiry on their
12 report that they discover after 12 months, it's no
13 longer factored into a FICO or VantageScore or most
14 generic scores, and it would have no effect on their
15 credit report. Or an individual who has no contents
16 in their credit report other than an inquiry would
17 not be harmed, because they're unscorable. Or an
18 individual who has an inaccurate hard inquiry on
19 their credit report from a mortgage or auto lender
20 during a period that they were comparative shopping
21 for a mortgage or auto loan, and it's bundled into
22 that scenario and is counted as a single inquiry,
23 wouldn't have any impact on their score, wouldn't
24 have any impact on any decision-making, wouldn't

1 have a harm from a credit perspective. I think
2 those are three immediate instances where an
3 individual would have no harm from the inclusion of
4 an inaccurate piece of information after having
5 contested it.

6 Q. Okay. You limit your definition of harm
7 as to whether it would impact a credit score, is
8 that right?

9 A. Well, I'm here to talk about, you know,
10 economic or credit damages, that's my domain. I
11 know that, you know, your expert, Evan Hendricks,
12 talked about psychological and psychological and
13 physical harm. I'm not an expert in those areas, so
14 I can't really offer a qualified opinion as to
15 whether or not that's even a possibility.

16 Q. Okay. My question was, though, that your
17 definition of harm is limited to effect on credit
18 score, is that right?

19 MS. ROPER: Objection to form. Go ahead.

20 BY THE WITNESS:

21 A. Yeah, I mean, I'm an economist by
22 trading. I try to quantify things. We're talking
23 about a data element in a credit report. Credit
24 reports have permissible purposes so they've got

1 finite uses. They're measurable impacts. I can,
2 you know, look at and speculate and offer opinions
3 on impacts based on what I know in a credit market
4 context. That's the primary use for credit reports.

5 I know they're insurance underwriting and
6 employment and tenant screening. But I also know
7 that the impacts from these variables and those
8 markets are likely to be equally as significant as
9 nonexistent going to what I understand is the value
10 of these -- or this -- these data elements and
11 either scores or, in fact, in many cases, you know,
12 the scores aren't disclosed.

13 MR. SOLA: All right. I'll move to strike as
14 nonresponsive.

15 BY MR. SOLA:

16 Q. My question was: Is your definition of
17 harm limited to the effect on credit score?

18 MS. ROPER: Objection to form.

19 BY THE WITNESS:

20 A. It's limited to credit market impacts
21 and, by extension, economic impacts. That's what
22 I'm qualified to speak on, so again --

23 BY MR. SOLA:

24 Q. Okay. But you --

1 A. Yes.

2 Q. Well, but my question is about credit
3 score. That seems to be what you keep pointing out.

4 A. No, I've --

5 Q. But I'm not asking about score.

6 A. I've extended this to credit market
7 impacts. I mean, a score is something that's used
8 in an origination process for credit decisioning for
9 eligibility determination, and that would be credit
10 market, not credit score. So it's in the
11 origination process so I do, in fact, include that.

12 Q. And you agree inquiries by themselves are
13 considered in credit decisions, right?

14 MS. ROPER: Objection to form.

15 BY THE WITNESS:

16 A. Inquiries by themselves are considered,
17 yeah.

18 BY MR. SOLA:

19 Q. They're a factor?

20 A. They are a factor, yes.

21 Q. And, in fact, one of the standard reason
22 codes on an adverse action letter is too many recent
23 inquiries, correct?

24 A. That is a reason code, absolutely.

1 Q. Okay. So not even considering the effect
2 on the score, the number of inquiries could cause a
3 credit denial?

4 MS. ROPER: Objection to form.

5 BY THE WITNESS:

6 A. Yeah, the number of inquiries is a
7 variable that's included in a credit score, yes.

8 BY MR. SOLA:

9 Q. Okay.

10 A. And it's in the reason code section
11 specifically because of its link to a credit score,
12 absolutely.

13 Q. Well, don't you agree -- okay. Do you
14 believe that it's only in the reason code because of
15 its link to a credit score?

16 A. The reason codes in a credit report are
17 reasons why you basically don't have a perfect
18 credit score. So if you apply for a credit score
19 and a credit report, they're going to offer you
20 reasons why you don't have an 850. It's basically
21 information that could help a consumer take measures
22 or change their behavior to improve their score.
23 Now, there's adverse action notifications which have
24 reasons. So an adverse action could be taken or by

1 a lender and would provide reasons why an adverse
2 action was taken that would include, you know,
3 potentially a high number of inquiries, yes,
4 absolutely.

5 Q. That's right. And so that adverse action
6 based on the high number of inquiries could occur
7 regardless of whether there was a score provided to
8 that creditor or not, correct?

9 MS. ROPER: Objection to form.

10 BY THE WITNESS:

11 A. I'm unaware of an instance where a lender
12 would pull a credit file without a score and would
13 use that as a reason -- I mean, they could
14 potentially just use credit file data in their own
15 proprietary score and report back that's a reason,
16 but it would generally be linked to their own score.
17 I mean, I -- I'm not familiar with a manual
18 underwriting process that generates a reasons code
19 section that would have that in. I think almost in
20 every instance in this environment of pervasive
21 automatic underwriting would be linked to a score,
22 whether it's a generic credit bureau score like a
23 FICO or Vantage or whether it's a proprietary score
24 that is internal to a creditor.

1 BY MR. SOLA:

2 Q. Now, your opinions in these cases where
3 you're testifying on behalf of a credit reporting
4 agency, are you generally defending the actions of
5 the credit reporting agency; in other words, saying
6 that they're procedures or policies were proper?

7 A. I think I've done most of my work for the
8 defendant, yeah, that would be correct.

9 Q. Okay. And in those cases where you talk
10 about harm, is your opinion generally that the
11 consumer has not suffered any harm?

12 A. I don't think I would simplify it as
13 such. I think I would provide a more objective
14 perspective that there are cases in which an
15 individual may have suffered harm even possibly
16 quite considerable harm. But there are also cases
17 where a consumer likely has not experienced any harm
18 at all and they're lots of shades of gray in
19 between. I think, you know, oftentimes it's a
20 matter of cases being brought with overly simplified
21 positions where reality is far more complex. So I'm
22 trying to provide the trier of fact with a
23 consideration of facts based on expert knowledge and
24 opinion and evidence.

1 Q. Is it your opinion that having inaccurate
2 information on your credit report itself is not
3 harm?

4 MS. ROPER: Objection to form, misstates his
5 testimony.

6 BY THE WITNESS:

7 A. That having inaccurate credit information
8 on a credit report by itself is not harm. So if you
9 mean by itself, do you mean that the data subject
10 doesn't have any awareness of it, that a third party
11 never pulls it, that it's never run through a score
12 card, that it just exists on a database --

13 BY MR. SOLA:

14 Q. No, that --

15 A. -- but it's never used?

16 Q. No, that's a good -- that's a good
17 question. Let's add that one, a couple of those
18 variables.

19 Is it your opinion that there is no harm
20 to a consumer if inaccurate information is reported
21 about them on a credit report?

22 MS. ROPER: Objection to form.

23 BY THE WITNESS:

24 A. You know, I'll just foreshadow what

1 you're going to hear a lot today. It depends.
2 Let's say that an old credit line, credit card with
3 a very high limit that's never had a late payment
4 finds itself on to my credit report and it's
5 accurate, inaccurate, it's not mine. I know it's
6 not mine, but by credit score goes from a 550 to a
7 720. Am I harmed by the presence of an inaccurate
8 piece of information on my credit report? I mean,
9 from a credit market perspective, I'm probably
10 helped. And that's the area that I'm here to talk
11 about.

12 If you want to go into other domains
13 about morality or, you know, emotion, I mean, I
14 could be wrestling with the correctness of knowingly
15 including inaccurate information that could
16 potentially benefit me, so I may be harmed in terms
17 of moral degradation, but I mean that's speculative.
18 But I mean there are lots of scenarios where
19 inaccurate information on your credit report not
20 only wouldn't harm you but could benefit you from a
21 credit market perspective.

22 Q. Okay. Let's take that scenario. So
23 let's say there was something on your credit report
24 that was inaccurate that actually raised your credit

1 score, okay, and then a lender made a decision based
2 on that score. Okay. Then the lender's making a
3 decision on an inaccurate score, right?

4 A. Correct.

5 Q. Okay. Then the lender's harmed, right,
6 aren't they, because they're making a decision on
7 inaccurate data?

8 MS. ROPER: Objection to form.

9 BY MR. SOLA:

10 Q. Let me say they could be harmed if that
11 loan -- if that person wasn't qualified when they
12 made the loan?

13 MS. ROPER: Objection to form.

14 BY THE WITNESS:

15 A. I mean, it depends. Like again, you
16 know, if the person makes the minimum payments,
17 never misses a payment, turns out to be a good
18 customer, you know, they've beaten the odds and
19 they've got a new customer making payments. Yes, if
20 they extend -- if it results in overextension, then
21 everybody would be harmed. But I mean it also could
22 be a scenario -- I mean you're positing where now
23 I've got an inaccurate piece of information that
24 increases my score and then I apply for credit. And

1 then I get credit that I can't afford, so I mean
2 you're sort of narrowing the scenario based -- you
3 know, yes. There are lots of scenarios to your
4 point where if we look at the individual
5 circumstances that are tied to their behavior; the
6 contents of their credit report, the nature of the
7 inaccurate piece of information, an individual could
8 be harmed or benefit. And by extension, a lending
9 institution could be harmed or benefit. And by
10 further extension, the general population which then
11 has to account for the risk premium because of the
12 degradation in the portfolio performance could also
13 be harmed because their interest rate will go up
14 marginally. So, I mean, we can take this the whole
15 way to the macroeconomy if you want but, I mean,
16 yes.

17 BY MR. SOLA:

18 Q. Okay. Would you agree that when a
19 customer buys a credit report from Equifax, they
20 believe the information is accurate?

21 MS. ROPER: Objection to form.

22 BY THE WITNESS:

23 A. I think they believe it's -- you know,
24 it's an accurate piece of information based on their

1 past experience with credit reports from Equifax.

2 BY MR. SOLA:

3 Q. All right. And, in fact, that's what
4 they're paying for, accurate information, right?

5 A. Yes, they are.

6 Q. All right. And if they get inaccurate
7 information, then they're not getting what they
8 bought, paid for, right?

9 A. Correct.

10 Q. All right. Let's talk about trial
11 testimony. Have you ever given trial testimony?

12 A. I have, yes.

13 Q. Okay. In credit reporting cases?

14 A. No.

15 Q. In what kind of cases?

16 A. IMS Health, I think Sorrell, and I've
17 forgotten the other one, but it's on the appendix.
18 They were effectively questions of the relationship
19 between access to script data, which is basically
20 data on the prescriptions offered by physicians and
21 filled by pharmacies to pharmaceutical companies and
22 used in detail, which is the ability of pharma sales
23 staff to prioritize different physicians for
24 different treatments, different therapeutic

1 treatments. And there was an alleged link that this
2 was driving up the cost of prescription drugs. And
3 we were involved to testify --

4 Q. Do you mind me cutting you off?

5 A. That's fine. That's fine, yes.

6 Q. That's enough. You're not a lawyer, is
7 that correct?

8 A. No, I'm not.

9 Q. Okay. And you're not offering any
10 opinion in this case on whether Equifax's actions or
11 procedures related to disputes of inquiries complies
12 with the Fair Credit Reporting Act, correct?

13 A. No, sir, I'm not.

14 Q. All right. And you're not offering any
15 opinion on whether Equifax's actions or procedures
16 regarding disputes of inquiries was in reckless
17 disregard of the Fair Credit Reporting Act?

18 A. No.

19 Q. In fact, you don't know the provisions of
20 the Fair Credit Reporting Act, is that fair to say?

21 MS. ROPER: Objection to form.

22 BY THE WITNESS:

23 A. I'm fairly familiar with the Fair Credit
24 Reporting Act. I mean, I've read it dozens of times

1 over my life, and I've testified in Congress on
2 considerations of amendments to the Fair Credit
3 Reporting Act, so I would say I have an above
4 average familiarity with the Fair Credit Reporting
5 Act. But I'm not a lawyer, and I'm not here today
6 to offer an opinion on compliance with the FCRA.

7 BY MR. SOLA:

8 Q. All right. And you're not here to offer
9 an opinion on interpretation of any section of the
10 FCRA, is that right?

11 A. No.

12 Q. Or of any reading of the FCRA would be
13 considered reasonable?

14 A. No.

15 Q. And you have no knowledge of the position
16 of the Federal Trade Commission in regard to a
17 credit reporting agency's obligations regarding
18 disputes of inquiries, is that right?

19 A. I mean, I -- I don't know that I'd say I
20 have no knowledge. You know, we've consulted with
21 and advised the FTC over the years particularly in
22 regard to their congressionally mandated study on
23 the accuracy of data contained in the database used
24 of the three nationwide consumer reporting agencies.

1 And a component of that was the dispute resolution
2 process simply because from a methodological
3 perspective in crafting our study and in advising
4 the FTC on how they should craft their study, this
5 was certainly a consideration, especially because
6 both their study and our study directly involved
7 consumers.

8 And so I have some familiarity with
9 staff, if the staff that were involved in the study
10 and their perspective on the dispute resolution
11 process generally and then you know specifically
12 with regard to different types of either information
13 or data elements. But, no, I don't know that it was
14 necessarily so granular as to get into hard
15 inquiries. But I wouldn't agree with your blanket
16 statement that I have no knowledge. But --

17 Q. Well, let me ask you --

18 A. I'm not here to opine on, you know, FTC
19 perspectives on compliance of the dispute
20 reinvestigation and resolution process with respect
21 to hard inquiries and in my report or today.

22 Q. Okay. Would you agree you don't know if
23 the FTC's position is that disputed inquiries have
24 to be reinvestigated by consumer reporting agencies?

1 A. Yeah. I mean, you're getting into legal
2 definitions and, you know, parsing, and I -- whether
3 or not the FTC thinks that a piece -- a data
4 element, you know, of factual record of access
5 should be treated the same as a piece of a data
6 that's furnished to a credit bureau, I'm unaware
7 that they've published anything in that regard. I
8 likely would have seen it, but I don't have any
9 recollection of that.

10 Q. So it's fair to say you have no knowledge
11 of the Fair Credit -- Federal Trade Commission's
12 position as to whether inquiries that are disputed
13 should be reinvestigated by consumer reporting
14 agencies?

15 A. Yeah.

16 MS. ROPER: Objection to form, misstates his
17 prior testimony.

18 BY THE WITNESS:

19 A. And I would just again state that we've
20 worked with the FTC, they've never raised the issue.
21 I would have thought if they would have believed
22 that there were some inadequate measure in place by
23 any of the three nationwide CRAs with which they and
24 we work, that would have come to the fore during

1 those methodological discussions, and it didn't. So
2 again I wouldn't say that I have no knowledge, but I
3 would say that, you know, if you're seeking very
4 specific granular information on, you know, one data
5 element in a consumer credit report, you know, I
6 don't have a detailed knowledge of a potentially
7 nuanced opinion, but I also know that the FTC in the
8 course of that had they had any problems with it,
9 they most likely would have advised and counseled
10 the three credit bureaus to change their practice.
11 And that they didn't I think is consistent with they
12 probably didn't have an issue with it.

13 BY MR. SOLA:

14 Q. Well, you're sake you worked with the
15 FTC. How far back are you going? Are you going
16 back to the '90s?

17 A. 2004.

18 Q. Oh, 2004. Okay. So just in the last 11
19 years?

20 A. Yeah.

21 Q. Okay. And you know the FTC has regulated
22 the --

23 A. Oh, yeah.

24 Q. -- the FCRA for more than 40 years,

1 right?

2 A. Correct.

3 Q. Okay. And am I correct you have no
4 knowledge of the position of the Consumer Financial
5 Protection Bureau in regard to a credit reporting
6 agency's obligations to reinvestigate disputes of
7 inquiries?

8 MS. ROPER: Objection to form.

9 BY THE WITNESS:

10 A. Yeah. I would offer the same answer that
11 I did with the FTC. I mean, we've worked with and
12 advised the CFPB on consumer credit information and
13 sharing issues since their inception. I know Corey
14 Stone very well. We've advised them on
15 congressionally mandated studies. We've briefed
16 them extensively and repeatedly on data quality
17 analysis while I was in the field on the aspects of
18 the methodology and separately on the findings and
19 conclusions. And again I think at any point had
20 they or the FTC had any problems with the practices
21 around dispute resolution on hard inquiries or any
22 data element or trade line, that would have come to
23 the fore. So I don't know represent myself as
24 having no knowledge. But again it's very possible

1 that someone at the CFPB presently may have an issue
2 and they may be investigating it. I can't claim to
3 have inside information on, you know, emerging
4 concerns, if any, from the CFPB on this specific
5 issue.

6 Q. And, in fact, you're not aware of any
7 enforcement actions related to disputes of
8 inquiries, is that right?

9 A. Correct.

10 Q. I notice on page 30 and 31 of your report
11 you indicate the documents and materials you relied
12 on in forming your opinions. Do you see that?

13 A. Correct.

14 Q. Okay. And I don't -- I don't see in
15 there the complaint. You didn't read that, is that
16 fair to say?

17 A. No, I did read the complaint. It's an
18 oversight. And so with your permission, I'll revise
19 that to include the complaint.

20 Q. All right. And am I correct you did not
21 review the Equifax credit reports on Mr. Steed?

22 A. Correct.

23 Q. And you did not review Mr. Steed's
24 dispute letter to Equifax?

1 A. Correct.

2 Q. And you did not review the results of the
3 disputes that Equifax send to Mr. Steed?

4 A. Correct. I mean, I read what was in the
5 materials that I've listed here, and there were
6 discussions about those contents. But based on
7 those discussions, I didn't see any need to read the
8 underlying documentation, the credit reports or the
9 forms.

10 Q. All right. And the same with
11 Ms. Summers, you didn't look at her credit reports
12 from Equifax or her disputes or the results?

13 A. That's right.

14 Q. And you did not review Equifax's
15 responses to interrogatories that the plaintiffs
16 submitted?

17 A. I think -- the general contents were
18 contained in these documents. And some of the
19 language was cited that I think even in the
20 depositions you may have read what you called the
21 robo letters or the robo form, the aspects about
22 the -- their having contacted the inquirer and so
23 forth. But I am familiar with the form. I've seen
24 the form. I've been provided with a general form

1 that would have been, I believe, was represented to
2 me the letter that Mr. Steed and Ms. Summers would
3 have received.

4 Q. Okay. And by form, you mean the form
5 results --

6 A. Yeah.

7 Q. -- Equifax uses?

8 A. Correct.

9 Q. And did you review any documents to
10 prepare for the deposition?

11 A. I did.

12 Q. What did you review?

13 A. The complaint, my own report. I think
14 that's it.

15 Q. Okay. When were you hired to work on
16 this case?

17 A. I don't know the exact date. I think I
18 was contacted when I was in Montreal this summer, so
19 it would have been sometime in July or August, I
20 think. And I don't know if I was hired at that
21 point. I think that was when I was reached out to.
22 It may have been some weeks later. So it's possible
23 it could have been September.

24 Q. All right. And who contacted you?

1 A. Meryl.

2 Q. Meryl Roper?

3 A. Yes, Meryl Roper.

4 Q. Counsel for Equifax?

5 A. The woman sitting right next to me.

6 Q. Okay. Have you had any contacts with
7 anyone else -- well, have you had any contacts with
8 anybody at Equifax in regard to your work on this
9 case?

10 A. Before or after?

11 Q. After.

12 A. Oh, after. Okay.

13 Q. After you were contacted by Ms. Roper?

14 A. Yes, I had a half day meeting in Atlanta
15 at the law offices of King & Spalding, at least
16 that's where I think I was. And general counsel
17 of --

18 THE WITNESS: Troy, was that his name?

19 BY THE WITNESS:

20 A. -- was there. And then another Equifax
21 lawyer whose name presently escapes me. I want to
22 say Jennifer, but it's a common name.

23 BY MR. SOLA:

24 Q. All right. Now, are you -- would you

1 claim attorney-client privilege for those
2 discussions?

3 MS. ROPER: I would. It was after Mr. Turner
4 was retained and started work on the case.

5 MR. SOLA: All right.

6 BY THE WITNESS:

7 A. Sorry. I also had at least one other
8 phone call with Gary Pock, I think is his name. I
9 had read his deposition and had some questions that
10 I wanted clarification on, so there was also that
11 conversation. And then I did have another phone
12 call with someone from Equifax legal on some
13 questions regarding their materials and just again
14 clarification, so I think three communications all
15 in, yes.

16 BY MR. SOLA:

17 Q. And was this prior to you preparing your
18 expert report?

19 A. I think it would be during the course
20 would be more accurate, yes.

21 Q. So prior to the date you submitted your
22 report, is that fair?

23 A. Yes, sir.

24 Q. Okay. What's your understanding of

1 Mr. Steed's claim in this case?

2 A. Mr. Steed is claiming effectively mixed
3 file and that, you know, he -- the response from
4 Equifax was inadequate given his actions and
5 communications with Equifax.

6 Q. And response in regard to what?

7 A. A hard inquiry on his report from like
8 clear something. I can't remember the furnisher,
9 and the furnisher was coded differently at different
10 points in time. But, yes -- the inquirer rather.

11 Q. All right. And you agree there were
12 errors on his Equifax credit report?

13 MS. ROPER: Objection to form.

14 BY THE WITNESS:

15 A. Yeah, I mean, possible, those are
16 inaccurate. I mean it's likely based on what I
17 read.

18 BY MR. SOLA:

19 Q. Okay. You don't know, is that fair to
20 say?

21 A. You know, it seems based on what I've
22 seen that the inquiry may have been inaccurate may
23 have been the result of a mixed file, yes.

24 Q. Okay. And what's your understanding of

1 what a mixed file is?

2 A. Well, it conventionally, it's when
3 information or a data element that belongs to person
4 A ends up on another person, let's say person B's
5 credit file, going to any number of reasons, it
6 could be similarity in their names. Could be
7 similarity in their SSN. Could be that they reside
8 at the same address. There's just some manage issue
9 that led to populating one person's credit file with
10 data or information about another person.

11 Q. And you agree that Mr. Steed had a mixed
12 file?

13 MS. ROPER: Objection to form.

14 BY THE WITNESS:

15 A. Yeah. I mean, you know, again, I think
16 based on my review, that's certainly a distinct
17 possibility.

18 BY MR. SOLA:

19 Q. All right. Do you agree that Equifax
20 when they received his dispute of the inquiry at
21 issue in this case treated his file as a mixed file?

22 MS. ROPER: Objection to form.

23 BY THE WITNESS:

24 A. Yeah. I'm not really an expert on the

1 application of, you know, their policies and
2 processes, and I know you had an opportunity to
3 speak with Equifax employees about that. So I'm,
4 you know, really here to talk about whether or not
5 the practices and policies of Equifax are adequate
6 and you know given the nature of the dispute and are
7 consistent with industry practices so that's a
8 different level of analysis than an individual
9 application.

10 Q. All right. So you don't know if they
11 treated his file as a mixed file when they got his
12 dispute, is that fair to say?

13 A. Sure.

14 Q. All right. And you don't know when he
15 made his dispute that's at issue in this case, do
16 you?

17 A. You know, I don't have the date at hand,
18 but I've read in the documents in the complaint and
19 in his deposition when the date was, yes.

20 Q. And do you know what item he was
21 disputing that he's claiming in this case?

22 A. There was a hard inquiry from like C --
23 it was clear -- I can't remember what the acronym
24 stands for. But it was a lender or a card issuer

1 that he's claiming is not his effectively.

2 Q. And you don't know what he sent to
3 Equifax in regard to that dispute, do you?

4 A. You know, I -- my understanding is
5 there's inconsistencies in his representations and
6 there was a lengthy period of time between
7 communications, but I believe there was initially an
8 oral, like a phone call that he placed, and I don't
9 believe there was any follow-up after that for more
10 than a year. But again, I mean, that's something
11 that I've looked at. It's different than
12 Ms. Summers, who seems to have provided much more
13 information and gone to much further lengths to have
14 the variety of inaccuracies removed from her credit
15 file than did Mr. Steed.

16 Q. And you're not aware of the results that
17 were sent to Mr. Steed other than that it was the
18 form letter?

19 MS. ROPER: Objection to form.

20 BY THE WITNESS:

21 A. Yeah, it's my understanding that he
22 received a communication from Equifax that his
23 record had been accessed, there had been a
24 disclosure and then the contact information from the

1 inquirer and was directed to communicate directly
2 with them.

3 BY MR. SOLA:

4 Q. Okay. And do you understand he wasn't
5 disputing that his record had been accessed but
6 rather that that record access did not pertain to
7 him and should not be on his report?

8 A. Right.

9 Q. All right. He was right about that,
10 wasn't he?

11 MS. ROPER: Objection to form.

12 BY THE WITNESS:

13 A. You know, if his obligations were true,
14 that if someone else accessed his credit file or if
15 his credit file was provided without his
16 authorization, that would be true, yes.

17 BY MR. SOLA:

18 Q. Okay. But Equifax never looked into
19 whether that was true, did it?

20 MS. ROPER: Objection to form.

21 BY THE WITNESS:

22 A. You know, my understanding is that
23 Equifax responded by suggesting or stating clearly
24 that his credit report had been provided to that

1 specific inquirer on that particular date and, you
2 know, if it was unauthorized, he should contact them
3 and communicate with them.

4 BY MR. SOLA:

5 Q. But my question is: Equifax never looked
6 into the fact as to whether that access of his
7 credit report actually belonged to him?

8 MS. ROPER: Objection to form. Robert, so I
9 don't keep interrupting you. Could I have a
10 standing line of objections to the specifics of
11 Mr. Steed's dispute with Equifax? He's already
12 testified that what he looked at and what he did,
13 and I don't want to keep interrupting.

14 MR. SOLA: Okay. Well, what's the basis for
15 the objection? You said --

16 MS. ROPER: That is --

17 MR. SOLA: -- a form objection, right?

18 MS. ROPER: I'm sorry?

19 MR. SOLA: A form objection, so what's wrong
20 with --

21 MS. ROPER: Well, the --

22 MR. SOLA: -- the form?

23 MS. ROPER: -- form of my objection is that
24 it misstates his testimony, that it assumes facts

1 that are not in evidence. Mr. Turner has already
2 testified as to the documents that he's reviewed,
3 the documents that he hasn't reviewed. He's already
4 stated that he didn't review any of the dispute
5 letters from Mr. Steed. He didn't -- he's not here
6 to testify as to what was done specifically with
7 respect to Mr. Steed or Ms. Summers but more
8 generally as to hard inquiries and whether the way
9 that Equifax handles them are consistent with
10 industry practices.

11 MR. SOLA: Well, just because that's not what
12 he wants to testify about doesn't mean I can't ask
13 him about that.

14 MS. ROPER: I'm not saying --

15 MR. SOLA: I mean, it's --

16 MS. ROPER: -- you can't ask him -- I'm not
17 saying you can't ask him that. You can certainly
18 ask him the questions.

19 MR. SOLA: All right. Well --

20 MS. ROPER: I'm not preventing him from
21 answering, I just don't want to keep objecting to
22 form to every single one, but I'll just continue to
23 do that. Go ahead, Mr. Turner.

24

1 BY THE WITNESS:

2 A. I mean, all I can speak to are the facts
3 that were provided and the documents I reviewed, so
4 I don't know if I haven't been provided the
5 documents by Equifax. I mean, in --

6 BY MR. SOLA:

7 Q. Well, let me --

8 A. -- the complaint --

9 Q. Let me ask you. I'm asking --

10 A. -- and what was -- if I could finish.

11 Q. Okay.

12 A. In the complaint and the depositions I
13 read, you all have presented opinions and evidence
14 that suggests that, you know, this was a mixed file
15 or, you know, Ms. Summers was a victim of identify
16 theft, and this data remained on their credit file
17 after they've been contacted. I understand that. I
18 don't know how the dispute was handled when the
19 dispute was filed with Equifax other than that again
20 in the facts here, there was a letter sent to both.
21 It's the letter we've already discussed. So, yeah,
22 I mean --

23 Q. Okay. So you don't know -- basically
24 you're saying you don't know what Equifax did in

1 response to Mr. Steed's dispute?

2 A. I mean, my understanding is that they
3 communicated, you know, a factual record of access,
4 you know, they provided both named plaintiffs with
5 the same letter that access was made of your credit
6 file by different inquirers on these dates and
7 here's their contact information, that this was
8 unauthorized, please communicate with them. And
9 that's my understanding of what happened with the
10 initial communication.

11 I know there was oral communication with
12 Ms. Summers. She mailed in information, two
13 different letters, one pertaining to her daughter,
14 one pertaining to her, and pieces of information
15 were revealed. So they're different. But I'm --
16 I'm, you know, the details of what person and what
17 day and that sort of thing, I've never been
18 provided, so I can't speak to that. Nor do I think
19 that's necessarily relevant to the larger question.
20 But I'll stop.

21 Q. All right. So fair to say other than
22 your knowledge that in response to Mr. Steed's and
23 Ms. Summers's disputes, they received the letter,
24 which we've refer to sometimes as the form letter,

1 you don't know what Equifax did?

2 MS. ROPER: Objection to form, asked and
3 answered.

4 BY THE WITNESS:

5 A. Yeah, I mean, again, I know that an
6 errant address associated with identify theft for
7 Ms. Summers was removed. I think it was a Charlotte
8 address. I know that a credit card trade line, I
9 think also associated with the identify theft, was
10 removed. I know that an auto loan that was linked
11 to her three-year-old daughter, I think, was also
12 removed. So all of the information that was
13 contested, my understanding, by Ms. Summers but for
14 the three hard inquiries, the two from DirecTV or
15 DISH Network and one from the other, were dealt
16 with. So the issue was at that juncture the
17 presence of the hard inquiries, but nothing else.
18 So, you know, now do I know what happened to have
19 all those removed? No. But I know that those were
20 removed.

21 BY MR. SOLA:

22 Q. All right. Let's talk about the disputes
23 of the hard inquiries. Other than the fact that she
24 received back the form letter, you don't know what

1 Equifax did in regard to any reinvestigation of the
2 hard inquiries, correct?

3 MS. ROPER: Objection to form, asked and
4 answered.

5 BY THE WITNESS:

6 A. Yeah. So again I know there was a phone
7 call by Ms. Summers from her deposition maybe a
8 year-and-a-half after the hard inquiries hit her
9 credit report. And maybe a year after she sent the
10 letters. And I think she was told that they no
11 longer have any impact on her credit score and that
12 they're deleted after two years and the two years
13 were coming up for one and within I think two
14 quarters they would both be deleted. But, no, I
15 don't know specifically what they did internally. I
16 know they were provided with information. I know
17 they acted on that information regarding everything
18 but the hard inquiries, but the hard inquiries
19 remained. And so there was an oral communication,
20 yes.

21 BY MR. SOLA:

22 Q. And you understand that Ms. Summers
23 claims she's a victim of identify theft, correct?

24 A. I do, yes.

1 Q. And it seems like you're aware that the
2 information she disputed resulting from identify
3 theft other than the hard inquiries was deleted?

4 A. That's my understanding, correct.

5 Q. Okay. Do you know whether Ms. Summers
6 ever sent Equifax a police report?

7 A. I do. I mean, she -- well, I have not
8 seen a copy of it. But my understanding from the
9 materials I've read and cited here is that she
10 claims to have sent two police reports, one from
11 Charlotte, Mecklenburg County, and the other from
12 the North Pole, Alaska, so.

13 Q. Now, I -- am I correct you don't have any
14 opinion as to whether Equifax -- well, as to
15 Equifax's handling of Ms. Summers' disputes, is that
16 fair to say?

17 A. Yeah, I'm not specifically offering
18 opinions on applications of Equifax's policy. I was
19 asked to opine on the consistency of Equifax's
20 dispute resolution practices given the nature of the
21 dispute and given my knowledge of industry practices
22 and standards.

23 Q. All right. And that's also true, you
24 have no opinion as to Equifax's handling Mr. Steed's

1 disputes?

2 A. Correct.

3 Q. Did you speak with anyone at Equifax to
4 prepare for the deposition?

5 A. Other than the conversations for -- oh,
6 for the deposition? Sorry, I misunderstood. One of
7 the lawyers from Equifax was involved in the dep
8 prep yesterday. Again I don't remember her name.
9 She didn't really offer much, but she was on the
10 call, yes. I'm really embarrassed I don't remember.
11 I'm sorry, I don't remember the name. I can find
12 that for you.

13 Q. All right. And did you meet with anybody
14 outside of Equifax to prepare for the deposition?

15 A. I mean, I had discussions with my
16 colleague, Patrick Walker, who had done some of the,
17 you know, fact-checking and, you know, editing of my
18 report, but other than that, no.

19 Q. All right. Could you tell me about your
20 educational background starting with your -- if you
21 have an undergraduate degree.

22 A. Sure. So I have a double major BA from
23 Miami University in Ohio in economics and in
24 political science. And then I have an MIA, Masters

1 International Affairs, from Columbia University in
2 New York City. And then a Masters of Arts, Masters
3 of Philosophy and Ph.D. from Columbia University in
4 international political economy and the department
5 of political science.

6 Q. Okay. And so --

7 A. And then I also, sorry, have some MBO
8 work I've completed with Harvard University.

9 Q. All right. Now, your graduate degree,
10 could you explain again what subject that was?

11 A. Sure. It's from the department of
12 political science but it was an interdisciplinary
13 degree with economics and political science.

14 Q. Okay. Did that deal with credit
15 reporting?

16 A. No.

17 Q. So am I correct that you have no formal
18 education in the field of credit reporting?

19 A. I'm unaware of a formal discipline
20 offered at universities called credit reporting.
21 But different functions of the credit reporting
22 industry certainly have -- involve aspects of my
23 education, you know, including econometrics,
24 statistics on the quantitative side, you know,

1 finance, business training and they run an
2 operations, the government affairs, which involves
3 legal and policy, so I have certainly skill sets
4 that are eminently relevant to the industry in
5 various facets of the industry.

6 Q. And what's your job?

7 A. I'm the president and CEO of the Policy
8 and Economic Research Council.

9 Q. And how long have you been in that job?

10 A. 14 years.

11 Q. And what is the Policy and Economic
12 Research Council?

13 A. It's a 501(c)(3) IRS tax exempt nonprofit
14 research and development organization. And our
15 mission is to promote financial inclusion
16 domestically and globally through the use of
17 information and information solutions.

18 Q. What do you mean by financial inclusion?

19 A. There are a majority of people on earth
20 who have no formal relationship with a bank, a
21 lender, a creditor. Their credit needs, which are
22 real, are most often met either via the black market
23 or via predatory lenders, pawnshops, check cashing
24 services, pay day lenders, money users or money

1 lenders far less formal than we have in the states
2 here in most cases.

3 Q. And I think you said financial inclusion
4 through --

5 A. The use of information and information
6 solutions.

7 Q. All right. And what kind of information
8 are you referring to?

9 A. So in the vernacular of the development
10 world, we talk about financial infrastructure, so
11 that would include consumer and credit information
12 sharing systems and value added services, which
13 would be generally models built from that data and
14 then collateral and asset registries as well as
15 payment systems.

16 Q. All right. And so that information would
17 include credit reports, right?

18 A. Absolutely.

19 Q. Okay. And so your work in a way would
20 be -- well, actually I'd say your work is committed
21 to having more credit reports, right?

22 A. Our work is committed to making sure that
23 those aspects of the financial infrastructure are
24 fairer and more inclusive. And so that would mean

1 that it's not about quantity of credit reports, per
2 se, it's about contents in the credit reports. I
3 mean, so, for instance, the crusade I've been on
4 since 2004 has been to have more non-financial
5 payment data populate credit bases here in the
6 United States and globally, things like payments for
7 gas, water, electricity, landline, wireless phones,
8 cable telephony, broadband, to help people thicken
9 their credit reports or help people be seen, in
10 fact, by lenders, so they don't have to have their
11 credit needs met by high cost lenders.

12 Q. Okay. So then there'd be -- you're
13 looking to get more information on credit reports,
14 such as the type you described?

15 A. Among other things. I mean, again, I'll
16 go back to inclusiveness and fairness. We're
17 looking to -- so, for example, the reforms I worked
18 on in Australia and New Zealand for seven years,
19 where the national reporting -- credit reporting
20 systems in those countries was what we call negative
21 only, where your -- the data that's on your credit
22 file is only your derogatory information, your late
23 payments, collections, bankruptcies, liens, sort of
24 public record data, which becomes an instrument for

1 exclusion rather than inclusion, and it makes it
2 very difficult to enter into the system by any means
3 ironically other than an inquiry. So we promoted
4 reform there and did some original quantitative
5 economic research for the Australian government and
6 were able to change the laws in both countries to
7 promote a more inclusive system. In fact, it's
8 called a fair file system.

9 So it's again, I think, very inaccurate
10 to suggest we're just about more credit reports or
11 more information. You know, our constituency are
12 what we call -- or who we call the credit invisible
13 or the missing middle, the people who cannot access
14 credit to generate wealth or build assets through
15 either home ownership or starting a small business,
16 not because of any past behavior and not because of
17 limits on their capacity, but because there's no
18 information available on them for lenders to make a
19 decision.

20 Q. Now, in the United States, you agree that
21 the accuracy of credit reports is essential to the
22 functioning of our credit economy?

23 A. I think that's universally true, yeah,
24 not just the United States.

1 Q. All right.

2 A. I mean, if you have inaccurate data, it's
3 garbage in, garbage out, right.

4 Q. And what's your income at PERC?

5 A. I think I might -- I don't know. It
6 depends on cash flow. But around \$150,000 a year.

7 Q. Do you have any other sources of income?

8 A. No. I mean, my wife earns an income, so
9 we have a household income.

10 Q. But how about through your expert
11 witness?

12 A. No. All that done is done through PERC.
13 I don't get anything personally for this.

14 Q. All right. So your payment in this case
15 will go to PERC?

16 A. Correct.

17 Q. And now PERC gets funding from several
18 private businesses, is that correct?

19 A. PERC has a very diverse funding body. We
20 get money from government agencies. We get money
21 from non-profits, from charities and philanthropic
22 organizations, from multilaterals and regional
23 development banks, from -- and from the private
24 sector, so yes.

1 Q. All right. And I want to ask you about
2 some of these private organizations that provide
3 funding to PERC?

4 A. Uh-huh.

5 Q. Okay. You agree that one of them is
6 Equifax, the defendant in this case?

7 A. Sure. Yes.

8 Q. And how much does Equifax gives to PERC?

9 A. I think this particular work I'm doing
10 for them right now would be the first instance we've
11 received money from Equifax in probably six or seven
12 years. They're not a major funder. I wouldn't even
13 say they're a significant minor funder of PERC.

14 Q. Well, do you understand they're listed on
15 your website as an organization that --

16 A. I do.

17 Q. -- supports PERC?

18 A. We're transparent. We try to list all
19 organizations that are funders of PERC.

20 Q. Okay. And Equifax Chile?

21 A. Yeah, we did some small work for them
22 many years ago.

23 Q. All right.

24 A. Because Chile also is a negative only

1 country, and it was very punitive to low-income
2 Chileans who couldn't build assets or generate
3 wealth, so we worked with the government to
4 promote -- I mean, it's -- and it was an incredible
5 case, because they were actually publishing credit
6 files in Chile. You could go and pull credit files
7 on your neighbors if they had negative data. And it
8 was run by their Chamber of Commerce, and they felt
9 they were doing a service because they considered
10 people with negative information criminals. They
11 even told me to my face they thought they were
12 criminals --

13 Q. Well, let me --

14 A. -- so --

15 Q. Why was Equifax Chile funding PERC?

16 A. Because of our brand and our expertise
17 globally on credit reporting and in developing
18 inclusive and fair credit reporting regimes. And
19 the nature of the regime in Chile, which was very
20 discriminatory. And so we were brought in as a
21 credible third party. We've done work with the
22 Inter-American Development Bank in the region and
23 with the World Bank IFC and CGAP. So we were
24 brought in as a voice to address some of the policy

1 shortcomings with the relevant government agencies.

2 Q. All right. And PERC also gets funding
3 from Experian, correct?

4 A. We do, yes.

5 Q. And that's one of the three national
6 credit reporting agencies, right?

7 A. That's correct.

8 Q. And you also get funding from TransUnion,
9 correct?

10 A. We do, yes.

11 Q. Do you get funding from the Consumer Data
12 Industry Association?

13 A. We have, yes. It's been several years
14 but, yes, we have.

15 Q. And that's known as CDIA?

16 A. Yes, sir.

17 Q. And that's the trade organization for the
18 credit reporting agencies, correct?

19 A. That's correct.

20 Q. Okay. And then you also get funding from
21 Acxiom, A-c-x-i-o-m, is that right?

22 A. That's correct. And that's probably been
23 more than ten years but, yes, they were a funder of
24 ours at some point in time.

1 Q. Okay. And what is Acxiom?

2 A. Acxiom is an information service provider
3 based in Conway, Arkansas.

4 Q. Okay. Is that what's known as a data
5 broker?

6 A. I think part of what they do could be
7 labeled as being a data broker, yes.

8 Q. All right. And then you also get funding
9 from Bank of America, is that right?

10 A. Correct.

11 Q. Okay.

12 A. We have had funding from them. You know,
13 again, you seem to be reading a list --

14 Q. Yeah.

15 A. -- published from --

16 Q. From your website.

17 A. -- our website. It's interesting you're
18 not focusing on Bill and Melinda Gates or NEKC or
19 the Kauffman Foundation or the United States
20 Treasury or the Department of Housing and Urban
21 Development or any of the myriad other agencies to
22 paint a balance perspective of our funding sources.
23 In many cases, they're much more significant funders
24 of ours.

1 Q. Yes, but you're not hired as an expert
2 witness by the Gates --

3 A. No.

4 Q. -- Foundation, are you?

5 A. I understand. But the intent, I'm
6 assuming, is to try and paint a biased picture of
7 influences on my perspective. And again the reason
8 we're transparent is because we're intellectually
9 pluralists and eclectic, and it's quite, you know,
10 difficult to draw that picture given the diversity
11 of our funding sources.

12 Q. Well, aren't you required to indicate
13 your funding sources?

14 A. No, not at all. I don't have to have
15 that on the website. You can get my 990. And I'm
16 required to divulge that to the IRS but not to
17 anybody on my website.

18 Q. Okay.

19 A. That's voluntary. That's again because
20 of the transparency, our preference to be
21 transparent.

22 Q. All right. Citigroup, that's another
23 company that funds you, right?

24 A. Sure. Everyone on your list that you've

1 pulled from the website has funded us or funds us
2 historically.

3 Q. All right. Well, I just want to make
4 sure it's accurate. Okay. Credit Bureau Singapore,
5 is that a funder?

6 A. Sure.

7 Q. DataStat?

8 A. Sure.

9 Q. And what's DataStat?

10 A. DataStat is a tiny reseller in Minnesota
11 verification that owns an asset called the
12 verification of income and employment, which was a
13 product created by Wells Fargo and Norwest ten years
14 ago, 15 years ago, that enables lenders to access
15 with the prior uncoerced affirmative consent of the
16 data subject their gross quarterly wages and
17 earnings as reported by their employer to the State
18 Unemployment Agency or State Workforce Agency.

19 Q. D&B, what is that?

20 A. Oh, Dun & Bradstreet.

21 Q. And what do they do?

22 A. They are a global consumer and commercial
23 credit information bureau.

24 Q. Am I correct they give -- one of their

1 primary areas is they do credit reports on
2 businesses?

3 A. They do. And they also in certain
4 countries like in Australia and New Zealand, they
5 offer consumer credit reports as well. And they
6 were competing with an entrenched monopoly in both
7 countries, and we were helping them reform the law
8 and helping them promote any competitive issues in
9 those countries as well.

10 Q. FICO, F-I-C-O, that's a company that
11 creates credit scores, right?

12 A. That's their primary line of business.
13 They're a value added service provider and the
14 vernacular of the industry, yes.

15 Q. And FICO, they provide their credit
16 scores to Equifax, Experian and TransUnion, is that
17 right?

18 A. They do.

19 Q. What is that?

20 A. They're an IP backbone provider, so they
21 provide the conduits through which most of the
22 transactional information from the furnishers
23 reaches the three nationwide CRAs. They also have
24 other information assets, check verification, other

1 data that's financial data. But they're, you know,
2 financial information services and IP backbone
3 provider.

4 Q. Fidelity National Information Services,
5 that's another funder, right?

6 A. Yeah.

7 Q. All right. And then GE Money, that's a
8 lender, is that right?

9 A. Correct.

10 Q. HSBC, that's a bank?

11 A. Correct.

12 Q. IMS Health, I think you've indicated
13 that's an information provider?

14 A. Correct. Yeah.

15 Q. And who did they provide their
16 information to?

17 A. All different concerns in the health care
18 industry.

19 Q. Have they provided to consumer reporting
20 agencies?

21 A. That's not my belief that they provide
22 data to consumer reporting agencies.

23 Q. Okay. You understand that there are
24 consumer reporting agencies that report health

1 information?

2 A. They collect health information, yeah,
3 the payment information generally, yes.

4 Q. Okay. And then Intel, that's the --

5 A. Chip manufacturer.

6 Q. -- technology company, right?

7 A. Yep.

8 Q. JPMorgan Chase and Company, that's a bank
9 and a lender?

10 A. They are, yes.

11 Q. Kroll Factual Data, that's a consumer
12 reporting agency?

13 A. That's one of their lines of business,
14 yes.

15 Q. LexisNexis, that's a large data provider?

16 A. Correct.

17 Q. Also a consumer reporting agency?

18 A. Correct, yes.

19 Q. SAS?

20 A. They're like FICO. They're a value added
21 service provider. They provide software to lenders,
22 you know, one of their primary lines of business, to
23 enable them to develop proprietary models. So
24 Statistical Aptitude Software is what SAS stands

1 for.

2 Q. Shinsei Bank, S-h-i-n-s-e-i, that's a
3 bank?

4 A. In Japan, yeah, that we work with them in
5 Japan, yes.

6 Q. Sinocredit?

7 A. That's a consultancy in Beijing that's
8 now defunct, yeah.

9 Q. Standard and Poor's?

10 A. Ratings agency.

11 Q. Rates investment products, is that right?

12 A. Sure. That's one of their primary lines
13 of business, yes.

14 Q. All right. TransUnion, we already talked
15 about them?

16 A. Uh-huh.

17 Q. Veda Advantage?

18 A. That's the large credit bureau in
19 Australia and New Zealand, and they've got
20 subsidiaries in other countries.

21 Q. Visa, that's the credit card company?

22 A. Yes, sir.

23 Q. And then Webster, Chamberlain and Bean?

24 A. That's a law firm.

1 Q. Okay. Where is that?

2 A. I think in Washington, D.C.

3 Q. And do they represent financial
4 institutions?

5 A. In this case, I believe that was their
6 affiliation with CDIA, so they were a funder of
7 ours, so, you know, again for transparency, they
8 were on the list.

9 Q. Who's CEIA?

10 A. CDIA.

11 Q. CDIA?

12 A. Yes. Correct.

13 Q. Okay. The Consumer Data Industry
14 Association?

15 A. Yes. So -- and do we have more on the
16 list, or is that --

17 Q. That was all I had. Are you aware of
18 more?

19 A. Yeah. So FinMark Trust, USAID. So
20 FinMark Trust is a nonprofit, charitable,
21 philanthropic org that -- org that's concerned with
22 financial inclusion. USAID is the development arm
23 of the U.S. Government. Fannie Mae and Freddie Mac,
24 the FHFA --

1 Q. I was asking about other private
2 organizations.

3 A. Oh, I'm sorry, I thought you wanted an
4 accurate picture of all of our funding sources,
5 so -- but okay.

6 Q. Any other private organizations you're
7 aware of that I didn't list?

8 A. Not that I'm aware of, no.

9 Q. Okay. Now, PERC, is that okay to refer
10 to your organization as PERC?

11 A. Sure. That's my preference.

12 Q. Am I correct they've done reports on
13 credit reports?

14 A. Sorry, it just sounds funny. Yes, we
15 have conducted research on different aspects of
16 consumer and commercial credit information sharing
17 in the U.S. and globally.

18 Q. All right. And I think you might have
19 listed some of those reports here. Do you remember
20 what the most recent report PERC issued? Actually
21 let me just to -- I see it's on the list of
22 publications.

23 A. Yes.

24 Q. Okay. All right. Let's go down to the

1 fourth from the bottom. We're on page 33. U.S.
2 consumer credit reports measuring accuracy and
3 dispute impacts, do you see that?

4 A. Yes, sir.

5 Q. All right. So that was a report you
6 issued about the accuracy and dispute impacts on
7 consumer credit reports, correct?

8 A. Yes.

9 Q. Okay. And that -- that was funded by the
10 CDIA, right?

11 A. CDIA provided support for that, that's
12 correct.

13 Q. Okay. And not only did they provide
14 funding, but they provided assistance in preparing
15 it, correct?

16 A. Yeah, I mean, they coordinated
17 communications with different stakeholder
18 organizations, including the three nationwide CRAs
19 and central source and others that we needed to work
20 with to execute and implement the project. But the
21 project design was ours as with any of our projects.
22 We're not a consultancy, so, you know, we have full
23 discretionary authority over the design of the
24 methodology, the implementation of the project and

1 then the results.

2 Q. And Equifax, they were a funder of that
3 study as well, right?

4 A. I'm assuming that CDIA collected money.
5 I mean, they're a trade association, and that's
6 generally how trade associations finance projects is
7 they collect money from their membership. But we
8 never received a check directly from Equifax.

9 Q. Okay. Were there any other financial
10 industry groups that funded that study or financial
11 industry businesses?

12 A. I'm trying to think. No, I think -- I
13 think -- I mean, it would be in the acknowledgments.
14 Again we disclose funding sources in the
15 acknowledgments of our report. And I believe this
16 one was CDIA.

17 Q. All right. Have you had other reports
18 that you've done on the credit reporting industry
19 that were funded by CDIA?

20 A. I think the 2006, 2007, the first report
21 on called give credit where credit is due, CDIA was
22 a minor funder among, I don't know, 15 different
23 funders. So they would have been a contributor to
24 that particular project. And then the work from

1 2003 on the Fair Credit Reporting Act. Let's see,
2 the name of the study, I'll find it for you. Yeah,
3 Fair Credit Reporting Act, access efficiency and
4 opportunity, both one and two, for in 2003, CDIA
5 would have been a member of a group of organizations
6 that funded those two studies. And I think that's
7 it.

8 Q. Now, I notice on that study, I think it
9 mentions the National Chamber Foundation of the
10 United States Chamber of Commerce. Actually, that's
11 the author of the report?

12 A. They're the publisher, I mean, they --
13 but, you know, U.S. Chamber is a trade association
14 of sorts, and they raise money from members of the
15 chamber. And, you know, in this case, funders would
16 have included, you know, all sorts of different
17 financial entities that were interested in this
18 analysis. But, I mean, again, I mean, CDIA sure was
19 a funder of that.

20 Q. Now, prior to your employment at PERC,
21 what was your employment?

22 A. Immediately prior I'd work for several
23 years for the Information Services Executive
24 Council, which was a 501(c)(6) group of information

1 service providers, interested in addressing emerging
2 data privacy and data security policy challenges in
3 the states and federally.

4 Q. Now, you say that this group, which you
5 abbreviated ISEC?

6 A. I say ISEC, sorry, it's easier to say.

7 Q. ISEC was a research and advocacy group --

8 A. Correct.

9 Q. -- comprised of the nation's largest
10 information services providers, including the three
11 national credit bureaus, and then you mention
12 others?

13 A. Correct.

14 Q. Okay. So this group, ISEC, who you
15 worked for, advocated on behalf of Equifax, Experian
16 and TransUnion?

17 A. Well, no, we advocated on behalf of, you
18 know, industry positions. It was a subsidiary of an
19 industry trade association. You know, my principal
20 task was bringing research skills to quantify, you
21 know, benefits and costs from information flows in
22 different contexts. And that was what I spent most
23 of my time doing. I actually resigned from ISEC
24 owing to ethical disputes I had with the mothership

1 and hung up my own shingle, which is how PERC was
2 born.

3 Q. The mothership meaning ISEC?

4 A. No. Meaning the direct marketing
5 association. Most of the data in that context was
6 not really the credit data, it was more marketing
7 data. Data that -- you know, online and offline
8 data that's collected, self-reported and through,
9 you know, companies like Google, through
10 DoubleClick, and I just -- you know, I was not
11 comfortable with certain practices by certain
12 industry players and 9/11 happened, a few months
13 later my father died, and I decided life was short,
14 and I quit and I resigned and hung up my own
15 shingle.

16 Q. All right. When you say you hung up your
17 own shingle, what do you mean by that?

18 A. I founded what was then called the
19 Information Policy Institute that morphed into the
20 Policy and Economic Research Council. As our issue
21 area sort of expanded, we needed a more appropriate
22 name.

23 Q. All right. And when you -- what was the
24 first group you mentioned before PERC?

1 A. The Information Policy Institute.

2 Q. Okay. And where did you obtain funding
3 for that?

4 A. Different sources. I wrote grants and
5 got grant funding. I developed projects and passed
6 the hat for different interested parties, so it
7 included public and private sector sources.

8 Q. And were the private sector sources
9 including credit reporting agencies?

10 A. In some cases, absolutely, yes.

11 Q. And banks?

12 A. In some cases, that would be true.

13 Q. All right. Now, do you consider yourself
14 an expert in any fields?

15 A. In any fields?

16 Q. Yes.

17 A. Sure.

18 Q. Okay. How about related to credit or
19 credit reporting, do you consider yourself an expert
20 in any field related to credit or credit reporting?

21 A. Yeah, I mean, yes.

22 Q. Okay. In which fields?

23 A. I have a high degree of familiarity with
24 the structure of the credit reporting industry in

1 the United States and in many emerging markets. I
2 have familiarity with global practices and trends,
3 the interplay between public credit registries and
4 private credit bureaus and credit reporting policy
5 practices and patterns globally. Credit modeling,
6 we've built score cards and then social and economic
7 impact analysis based on analysis of credit file
8 data and credit file contents.

9 MS. ROPER: I'm sorry to interrupt, can we
10 just take a five-minute --

11 MR. SOLA: Sure.

12 MS. ROPER: -- kind of like bathroom break?

13 MR. SOLA: That's fine.

14 (WHEREUPON, a recess was had from
15 10:39 a.m. to 10:51 a.m.)

16 BY MR. SOLA:

17 Q. In the field of credit reporting, is
18 there a specific area you consider yourself an
19 expert?

20 A. Yeah, I mean, you know, I've done a lot
21 of work with credit consumer and commercial credit
22 reports, so I'm familiar with the format and their
23 reporting practices and the dispute resolution
24 practices. I've done a lot of research in terms of

1 the social and economic impacts of including or
2 excluding certain data elements and the accuracy of
3 data. I've done a lot of work in terms of the
4 inclusion of particularly of non-financial payment
5 data and have built models, production models,
6 generic score cards, then file bankruptcy models and
7 have done a fair amount of work in terms of the
8 reporting from microfinance institutions and SACCOs,
9 both reporting to credit bureaus and using value
10 added services, including randomized control trial,
11 a multicountry, multiyear, randomized control trial
12 I'm running right now for the World Bank.

13 Q. Now, you understand in this case the
14 primary claim is Equifax is handling the disputes of
15 inquiries, correct?

16 A. Correct.

17 Q. Okay. And do you consider yourself an
18 expert in that area?

19 A. In terms of the earlier statement I made
20 about the credit information sharing networks in the
21 U.S. and in other countries, yeah, I'm very familiar
22 with information sharing credit information sharing
23 in the United States, particularly with the big
24 three credit bureaus.

1 Q. Okay. Well, I'm not asking about
2 information sharing, I'm asking about Equifax's
3 procedures for handling disputes of inquiries.

4 A. Correct. Yes, and I'm sorry that's an
5 umbrella term. So, yes, for the inquiry dispute
6 resolution process and their reinvestigation process
7 for Equifax, I am offering myself as an expert in
8 terms of their consistency with industry practices
9 and the adequacy of their policies given the nature
10 of the dispute, yes.

11 Q. Okay. Have you ever been qualified as an
12 expert by any court in the field of credit
13 reporting?

14 A. No.

15 Q. Have you ever been not -- found not to be
16 qualified as an expert by a court in the field of
17 credit reporting?

18 A. Never.

19 Q. Okay. So it's never come up?

20 A. Never.

21 Q. Okay. Now, have you ever worked as an
22 expert on any other case that dealt with one of the
23 big three CRAs procedures for resolving disputes?

24 A. Yeah, you know, I think many of the cases

1 in which I've been involved have -- as I mentioned
2 earlier, have, you know, surrounded allegations made
3 by plaintiffs about the responsive of the -- any one
4 of the big CRAs regarding disputes they made and
5 contents on their credit report and potential harms
6 from -- including disputed information.

7 Q. Okay. But that --

8 A. The reality is they wouldn't be taking
9 something to court if they never dispute it with the
10 CRA.

11 Q. Okay. But you mention three areas,
12 disputes, inaccurate information on report and harm,
13 and so --

14 A. Well, and --

15 Q. -- I want to just focus on the first.

16 A. They're sort of hand in glove, right? I
17 mean, they're disputing something that's perceived
18 to be inaccurate and, you know, asserting a
19 potential harm as a result of a preservation of a
20 perceived inaccurate piece of information. So, I
21 mean, you can sort of like an Easter egg doll, you
22 know, take them apart, I suppose, but, I mean, you
23 know, in this case and others I've worked on,
24 they've all been sort of inherently interrelated.

1 Q. Okay. But you understand, I mean, you
2 could test -- you could be somebody to testify about
3 harm and know nothing about --

4 A. Oh, I understand.

5 Q. -- you know, the accuracy, just --

6 A. Right.

7 Q. -- simply testifying on harm, let's say,
8 if you're a lender --

9 A. But we're a very unique organization.
10 We're the only organization on earth that has
11 dedicated itself full-time to an examination of the
12 relationship between information, information uses
13 and financial inclusion and that gives us a specific
14 focus generally on credit information both consumer
15 and commercial but overwhelmingly consumer. So I
16 think I have a very unique perspective and set of
17 experience that you probably haven't encountered in
18 other expert witnesses. But I'll leave that for you
19 to question.

20 Q. Okay. Why do you believe if you do
21 believe that you're an expert in discussing
22 Equifax's procedures in regard to disputes of
23 inquiries?

24 MS. ROPER: Objection to form.

1 BY THE WITNESS:

2 A. Yeah. I have worked with credit
3 reporting agencies including, but not limited to,
4 the three major repositories since 1999 in various
5 aspects of their direct to consumer relationships,
6 including their dispute resolution processes. I
7 have through the course of conversations with senior
8 executives in many different CRAs had an opportunity
9 to gain a fairly unique understanding of practices
10 and policies. I've also in the course of conducting
11 research as with the study that we mentioned and
12 referenced earlier on data quality and dispute
13 resolution processes have an opportunity to work in
14 depth for a period of years with senior executives
15 from the big three, from CDIA working with FTC
16 staff, discussing with their consultants who were
17 running their pilots, different aspects of the
18 dispute resolution process and how it would
19 interface with our attempt to measure the accuracy
20 of data in consumer credit files, so yes.

21 BY MR. SOLA:

22 Q. Okay. In working in the field of dispute
23 resolution procedures, did you ever encounter or
24 look into differences in procedures for the disputes

1 of inquiries versus disputes of other information?

2 A. Absolutely. In the study from 2011, and
3 the reason being that inquiries are data that's
4 considered the -- that we considered and certainly
5 we discussed this with different stakeholders and
6 different parties including the FTC and their team
7 that they're endogenous pieces of information. That
8 is to say that they're not the data that's generated
9 through an inquiry rather than a furnished piece of
10 information. And so the question would be when an
11 individual disputes that, you know, what's the more
12 accurate source of data? Are we to rely -- and our
13 conclusion was that given the nature of the data and
14 where it's generated that it's sort of a -- end
15 produced as a result of an inquiry to a bureau, that
16 that practice was sufficient. We had to compare
17 practices on --

18 Q. Wait, what --

19 A. -- dispute resolution --

20 Q. I'm sorry, what practice was sufficient?

21 A. The utilization of the internal database
22 for assessing the accuracy of a disclosure as a
23 result of an inquiry.

24 Q. Okay. Which study are you referring to?

1 A. The 2011 study on the accuracy of
2 consumer credit file data and dispute processes.

3 Q. Okay. And you're saying that PERC
4 concluded that inquiries should be handled
5 differently than other disputes?

6 A. That's not what I said.

7 Q. Okay.

8 A. I said that in the course of our
9 developing our methodology, we looked at how
10 consumers who were the focal point of our study, you
11 know, we engaged thousands of consumers and had them
12 review credit reports from all three bureaus, in
13 most cases all three reports from all three --
14 reports from all three bureaus. And we had to
15 understand how different data elements or pieces of
16 information would be disputed in differences in the
17 policies potentially among the participating CRAs
18 and whether that would impact our findings. So we
19 had to have consistency. If we've got radically
20 different procedures, they could have impacts on the
21 outcomes, which could have impacts on the score,
22 which could have impacts on our conclusions. So
23 there's a lot of work that goes into the research
24 design even data definitions and you know, I'm

1 sure --

2 Q. Well, let me -- let me just --

3 A. But yes.

4 Q. -- ask you --

5 A. So refocusing on hard -- on inquiry
6 disputes, we were very comfortable in our
7 examination of the policies of dispute resolution
8 from the three participants, Equifax, Experian and
9 TransUnion that they were sufficient in all cases.

10 Q. Okay. Sufficient in what way?

11 A. They were sufficiently consistent, so
12 that there weren't differences, you know, of any
13 degree that would effect outcomes; in other words,
14 if CRA A funneled all of the inquiry disputes
15 through e-OSCAR, and they don't, I'm just saying
16 hypothetically, while CRA B had very high threshold
17 evidentiary standards to have any, you know, person
18 actually investigate and C decided that any inquiry
19 from any media would result in a deletion of the --
20 I'm sorry, any dispute of any inquiry from any media
21 would result in the deletion. Those three
22 scenarios, hypothetical scenarios, would result in
23 very different outcomes for disputes and would
24 pollute or make very difficult for us to compare

1 findings across the three bureaus. So you have to
2 have sufficient consistency in the policies and
3 practices to be able to have an apples to apples
4 comparison of outcomes. And, you know, again we're
5 looking at accuracy of disputes as initiated by
6 consumers. So that was an essential piece of that,
7 absolutely.

8 Q. Okay. So you say you found they were
9 sufficient in terms of being consistent across the
10 three bureaus?

11 A. Correct.

12 Q. Okay. Any other way in which they were
13 sufficient?

14 A. And, you know, to my earlier point, we
15 had a discussion about the endogeneity of the data
16 source, because these aren't through e-OSCAR, right,
17 and so --

18 Q. You mean the disputes are not --

19 A. Correct.

20 Q. -- processed through e-OSCAR --

21 A. Correct.

22 Q. -- which is a choice of the bureaus,
23 right?

24 A. Correct. Yeah.

1 Q. Okay.

2 A. And we were comfortable with that
3 justification, you know, among the three bureaus.

4 Q. Okay.

5 A. Sorry, that's actually my phone on one.
6 Sorry, I just need to see if it's -- no, it's not.
7 I'm sorry.

8 Q. All right. And now in terms of
9 sufficiency, of course, you did not look at
10 sufficiency under the Fair Credit Reporting Act,
11 right?

12 A. Correct.

13 Q. So did you have access to the
14 confidential procedures and policies of other
15 bureaus than Equifax in regard to their dispute
16 process for inquiries?

17 A. We had a lot of access to a lot of
18 different information that was coming -- I mean, we
19 were bound with all sorts of NDAs, but, you know,
20 there was nothing that we wanted or asked for to
21 which we were denied access. If there was any level
22 of detail about any policy or practice, I mean, we
23 had -- you know, yes, we've had very good access
24 to --

1 Q. Well --

2 A. -- materials.

3 Q. Let me ask. In this case, you've been
4 provided with Equifax's policies and procedures
5 for --

6 A. Right.

7 Q. -- disputes of inquiries?

8 A. Right.

9 Q. Have you been given that access by
10 Experian or TransUnion?

11 A. I'm sure at different points in the past
12 we have, absolutely.

13 Q. We being PERC, not necessarily --

14 A. PERC.

15 Q. -- you?

16 A. Right. But, I mean, again, most of our
17 work is not done for -- I mean, I'm not a
18 professional expert witness. So much of our work is
19 done in the context of research so, you know, we
20 would have had needs for -- you know, I've seen the
21 data dictionaries, I mean, I've -- yes, I've had a
22 lot of confidential -- I mean, I've had confidential
23 financial information shared, so.

24 Q. And so you believe that you're an expert

1 because of the work you've done through PERC and
2 prior to that in the fields of credit reporting?

3 A. Yeah. You know, I -- yeah, I think my
4 belief is validated by, you know, public statements
5 made by industry executives from the world's leading
6 consumer credit information sharing companies. I've
7 been invited in to address executive teams. I've
8 been, you know, retained as an expert in other
9 cases. You know, our work has been cited in
10 Congress. I've testified before Congress. I've
11 been invited to advise the Federal Trade Commission,
12 the CFPB. I've been invited in to give talks by the
13 OCC, the FDIC and others. So, I mean, I'm sort of a
14 globally recognized expert on different aspects of
15 consumer and commercial credit information sharing,
16 absolutely.

17 Q. Okay. But a lot of that work wasn't
18 necessarily dealing with the dispute resolution
19 process, right? In fact, a lot of it wasn't dealing
20 with the dispute resolution process, was it?

21 MS. ROPER: Objection, misstates his prior
22 testimony.

23 BY THE WITNESS:

24 A. Yeah, I mean, I don't know what a lot --

1 that's sort of a subjective term. I mean, I -- you
2 know, I could be engaged in one project for five
3 years and spend a lot of time in the field and
4 interact with, you know, myriad different players
5 and different facets of an issue and on paper it's
6 one project out of 50, so is that a lot? You know,
7 I mean, it's -- you know, have I had sufficient
8 exposure to people who are responsible for dispute
9 resolution practices and policies on the industry
10 side? Have I had discussions with regulators about
11 different aspects of this? More than, you know, a
12 nonexpert, absolutely. I mean, absolutely.

13 Q. Well, when I asked you about PERC, you
14 talked a lot about information and inclusion, and
15 you didn't say anything about dispute resolution.

16 A. Yeah, so here's the thing and -- you
17 know, and I can --

18 Q. Wait, let's start -- but that's correct,
19 isn't it? When you --

20 MS. ROPER: Object --

21 BY MR. SOLA:

22 Q. -- described PERC, you did not --

23 A. No, I, you know --

24 Q. -- use the words dispute resolution?

1 MR. SOLA: Objection to form, misstates his
2 testimony.

3 BY THE WITNESS:

4 A. Yeah, I'm -- you know, are we an
5 organization that our mission is on dispute
6 resolutions? No. But if you're trying to
7 pigeonhole the work, it's a very overly simplistic
8 statement. I mean, when I'm looking, for example,
9 much of the work we've done is focused on the
10 inclusion of non-financial payment data. One of the
11 principal challenges of populating CRAs here and
12 globally with non-financial data is convincing a
13 furnisher that they would have a benefit from
14 reporting this information and that the cost for
15 compliance for dispute resolution won't overwhelm
16 that benefit and that they have the technical
17 capacity to do so and what that involves and what it
18 doesn't involve, so -- and the process of onboarding
19 data and going to meetings with legal teams and
20 executives at big gas companies or media companies
21 or elsewhere, this is part and parcel of what I'm
22 trying to do. So, you know, you can't really
23 disentangle dispute resolution from a lot of the
24 work we do. So if we're going to use the generic

1 term a lot, a lot of the work I've done has involved
2 dispute resolution. Whether it's in the field or
3 from a methodological perspective and research are
4 from, you know, different policy facets, but, you
5 know, have I -- have I -- sorry, but I'll stop.

6 BY MS. ROPER:

7 Q. But that involves -- you just talked
8 about noncredit information, right, that's what
9 you're saying you spend a lot of your -- I think you
10 used a word a lot. But, you know, focusing on --

11 A. No, I --

12 Q. -- trying to get --

13 A. -- intentionally used a lot, yes.

14 Q. Trying to get noncredit information into
15 the field of credit reporting or consumer reports,
16 right?

17 A. Right. But the dispute resolution
18 process would be identical for them, so that's an
19 immaterial difference.

20 Q. Now, you've indicated that you have been
21 hired by credit reporting agencies as an expert
22 witness, correct?

23 A. Correct.

24 Q. Have you ever been hired by consumers as

1 an expert witness?

2 A. Let's see. So there was a case some
3 years back where I was asked to assess the fairness
4 or I've forgotten the legal term again not what I
5 do, of a proposed settlement in a class action
6 lawsuit against the three credit bureaus, and so in
7 the course of doing that work, some classes were
8 joined and I discontinued the work. But I did
9 accept that work and that would have been for
10 plaintiffs, slash, consumers against the big three.

11 Q. Okay. And were they consumers that were
12 opposing the settlement?

13 A. No, that group had agreed to a
14 settlement. But there was another group that had
15 opposed the settlement and --

16 Q. I see.

17 A. -- I don't know how that works.

18 Q. Okay.

19 A. Honestly I don't.

20 Q. But you were hired by the group that
21 wanted the settlement --

22 A. Had reached a settlement and, you know,
23 were -- yes. Yes.

24 Q. And --

1 MS. ROPER: Robert --

2 MR. SOLA: Oh, okay.

3 MS. ROPER: -- sorry to interrupt. Here's a
4 list that we got from Mr. Turner's office on other
5 cases. And I don't know if this is a good time.

6 BY MR. SOLA:

7 Q. Okay. Well, do you have the list here?

8 Well, let me ask before I get to the
9 list. Okay. Other than that one instance you just
10 mentioned, you've never been hired by a consumer or
11 consumer group as an expert, right?

12 A. No, right, that's right.

13 Q. Okay. Have you ever given an opinion
14 that a credit reporting agency was at fault or acted
15 unreasonably in any report or testimony you've given
16 in a case?

17 A. Acting unreasonably? I mean, I've given
18 congressional testimony against prevailing industry
19 practices on a number of issues, yeah.

20 Q. Okay. But how about as an expert
21 witness?

22 A. No.

23 Q. Okay. So you've never testified that a
24 credit reporting agency was at fault or acted

1 unreasonably, is that right?

2 A. I think that's correct, yeah.

3 Q. Okay. Looking at this list, let's see --

4 MS. ROPER: Do we want to -- Robert, just
5 logistically, do you want to mark this as a separate
6 exhibit, or do you want to just include it in with
7 the reports since it's actually part of the exhibit
8 or Appendix B?

9 MR. SOLA: Why don't we just mark it as
10 Exhibit 2.

11 (WHEREUPON, a certain document was
12 marked Turner Exhibit No. 2, for
13 identification.)

14 BY MR. SOLA:

15 Q. Okay. The first one, is this the one
16 we've already discussed?

17 A. Correct.

18 Q. Okay. Then the next case, Kroenig versus
19 Maxim Healthcare Services, what was that about?

20 A. It was about the -- it was a data
21 reporting issue, reuse by an unauthorized party and
22 who was liable for that and generally that was it,
23 right.

24 Q. Okay. So it had to deal with -- it dealt

1 more with whether someone improperly used
2 information?

3 A. Correct.

4 Q. Okay. And you were a witness for Maxim
5 Healthcare, is that right?

6 A. I think so, yeah.

7 Q. And was your testimony that there was --
8 well, what was your testimony?

9 A. You know, I don't remember the details.
10 But it was that there was a third party that was
11 misusing the data that didn't have a per admissible
12 purpose but that they had pretexted and that, you
13 know, Maxim wasn't culpable for that, so I don't --

14 Q. That was -- your testimony was that Maxim
15 wasn't culpable?

16 A. Yeah, I believe that's the gist of it. I
17 mean, the details are lost on me. It was a pretty
18 minor case, yeah.

19 Q. How did the case resolve?

20 A. I don't know that it has been. I
21 submitted a report and, you know, sometimes if it's
22 settled, I don't even find out, you know. If they
23 need me for anything further, they will contact me.

24 Q. All right. Then this 2014 case, Roberto

1 Sevi?

2 A. Sevi, right.

3 Q. Sevi versus Experian, TransUnion and
4 Nationstar Mortgage, what was that case about?

5 A. My recollection of the fact was that
6 Roberto Sevi was a person of very low moral scruples
7 and had even an online brand for conning people and
8 he was in financial distress and trumped up
9 allegations of, you know, harms from allegedly
10 inaccurate information in his credit report against
11 the bureaus in an attempt to gain money to get
12 himself out of financial duress, and, you know,
13 it -- so I think my testimony was to assess the
14 impacts and from a credit market perspective of the
15 alleged inaccurate information and whether it would
16 have resulted in anything he actually claimed. And,
17 you know, I think this case too was settled. I
18 don't know that -- I mean, it was a very baseless
19 case. I mean, this is one of the shortcomings with
20 our judicial system that it's not as tough as it
21 should be on frivolous cases.

22 Q. And so was your opinion dealing with harm
23 or dealing with liability?

24 A. You know, it was the impacts of the

1 information and, you know, what it would have done
2 to his score and his creditworthiness and, you know,
3 eligibility for personal and business credit. He
4 was mixing the two.

5 Q. And was it your opinion that he was
6 not harmed in terms of a credit impact?

7 A. His credit was so horrible already. I
8 mean, he was bankruptcy and collections and all
9 kinds of derogatories and, I mean, he was clearly
10 robbing vendor -- he would subcontract out projects
11 and not pay them and take the money from the client
12 and, I mean, he was -- it was just a big shell game
13 with this guy.

14 Q. It would help just --

15 A. Sorry.

16 Q. Listen to my question.

17 A. Sorry.

18 Q. Okay. My question was: Was it your
19 opinion that he was not harmed in terms of credit
20 impact?

21 A. Correct.

22 Q. All right. Then the next case, Maclovio
23 Duarte, D-u-a-r-t-e --

24 A. Yeah, right.

1 Q. V. JPMorgan Chase, that involved -- what
2 did -- what was involved there?

3 A. It was a -- you know, I believe this was
4 one regarding the coding of a modified loan,
5 modified home mortgage loan. And the claim was that
6 the -- that Chase by reporting the -- and coding her
7 modification under Metro 2 as such had, you know,
8 negatively impacted her credit standing and,
9 therefore, lots of ill would befall to her in her
10 ability to access affordable credit moving forward.
11 And so, you know, I was asked to discuss the
12 appropriateness of coding the modified loan as such
13 under Metro 2 and also then assess the impacts in
14 different scoring models of such a code and whether
15 or not, you know, there was any merit to the claims
16 put forward by the plaintiff.

17 Q. All right. You were hired by Chase,
18 right?

19 A. Chase or their counsel. I mean, I don't
20 know if that's important or not. Sometimes they say
21 retained by the company, and sometimes they want you
22 to say you're retained by the law firm. But yes.

23 Q. All right. And in the prior case with
24 Mr. Sevi, you were -- who was -- who were you

1 retained by in that?

2 A. You know, I want to say Experian, but it
3 may have been TransUnion, and just honestly don't
4 remember.

5 Q. Okay. One of the defendants?

6 A. Right. One of the defendants.

7 Q. Okay. Now back to Duarte, was it your
8 opinion that the coding was proper?

9 A. It was absolutely proper.

10 Q. Okay.

11 A. I mean, I conferred with many
12 authoritative sources to, you know, substantiate my
13 belief. And, yes, moreover it's a case where that
14 that coding -- it was in a note. It's ignored by
15 every major score card that's used. I mean, it's a
16 nonquantitative variable and, hence, it's not put
17 into a score card, so it's just -- it was sort of
18 a -- I can't believe it even got that far type case.

19 Q. All right. And then you also mentioned
20 one claim was that there was harm. Did you give an
21 opinion that there was no harm?

22 A. Yeah, I did. I mean, again from a credit
23 market perspective, not from, I don't know,
24 emotional or physical or, I mean, I'm not an expert

1 in those domains.

2 Q. All right. And then the next case Mayor
3 Tom Murphy lee L. I. versus TransUnion?

4 A. Uh-huh.

5 Q. Was that a person making a claim that
6 TransUnion had reported inaccurate information?

7 A. I think this was a mixed file case.

8 Q. Okay.

9 A. And, you know, dispute resolution given
10 the mixed file and again the dispute process, the
11 alleged inaccurate and the potential consequences
12 that sort of Russian doll metaphor I used earlier,
13 yes. And that case was settled, I think, when I was
14 midstream on the report, so I didn't -- I don't know
15 if I technically submitted a report on that or not.
16 I think I didn't. So I don't know why it's on
17 there, but I was retained. I think you asked for
18 retained, so that's why.

19 Q. All right. And the next one looks
20 like --

21 A. Mixed file.

22 Q. It looks like a father and son --

23 A. Correct.

24 Q. -- Lopez, Jr. and Lopez, Sr. --

1 A. Right.

2 Q. -- mixed file? Which -- I don't see the
3 courts mentioned here.

4 A. I'll go back and get that. I don't know.

5 Q. Several of them, they don't have the
6 court --

7 A. Okay. So --

8 Q. -- just the case number.

9 A. I think I'll just have Patrick fill it
10 out.

11 Q. Okay.

12 A. He was just trying to get you something
13 quickly.

14 Q. Yeah. Lopez, who was the defendant in
15 that one?

16 A. I think TransUnion.

17 Q. And you were hired by them?

18 A. Correct.

19 Q. And did you give an opinion --

20 A. And same with Sykes and Harris, that
21 would be TransUnion as well.

22 Q. Okay. Did you give an opinion in Lopez?

23 A. I'm pretty sure I did. But, you know,
24 I'll have to go back and clarify. This was some

1 time ago, a couple years ago. A lot of these that
2 we take on, they're pretty clearly, you know, on one
3 side. And this might have settled --

4 Q. What do you mean by that, one side?

5 A. We seem to get cases where the issue at
6 hand is sort of really minor and I mean there's no
7 harms, it's more procedural and/or the plaintiff has
8 so much else happening in their credit file that
9 what's being asserted is -- it just impossible, so.

10 Q. Let's talk about. But a mixed file case,
11 I mean, that's bad, right, when you have someone
12 else's credit information on a consumer's report?

13 A. Well, I mean, that's again like an overly
14 simplistic statement. There are mixed file cases
15 that could be unintentional. There are mixed file
16 cases that could be intentional, where a father and
17 son live in the same house, they work at the same
18 company, they are authorized users on each other's
19 accounts, they may actually take out a line of
20 credit in the other's name because they have access
21 to that information. Some of these cases are
22 borderline, you know, intentionally fraudulent. So,
23 you know, there's no such thing as a mixed file case
24 outside of the context. You really have to look at

1 the context. And so again I'd have to review the
2 particulars of this case. But if it were something
3 that were very clearly where the defendant were in
4 the wrong, we never would have agreed to take that
5 on, I mean, reputationally. We're a small
6 think-tank, and we don't get most of our revenue
7 from industry despite your efforts to portray us as
8 such. And, you know, should we begin actually doing
9 things that show for industry, we would suffer
10 greatly in our ability to have traction with our
11 projects and credibility with audiences that matter
12 to us. So I can't believe we would have taken on,
13 you know, any case that were so cut and dry.

14 Q. But you agree that mixed files -- well,
15 would you agree that mixed files is a problem in our
16 credit reporting industry?

17 A. To the extent that there is a mixed file,
18 you know, for -- from the individual perspective,
19 that could be a big problem. But would I say mixed
20 files is a huge problem with credit reporting? Not
21 by any objective standard. I mean, again, our
22 analysis of credit file accuracy in the United
23 States and the FTC's -- and our findings were
24 statistically identical, by the way -- shows the

1 data to be remarkably accurate. So mixed files is
2 one thing that contributes to the marginal
3 inaccuracy, but it's -- I wouldn't say it's a big
4 problem, no.

5 Q. Really? You're not aware of the
6 testimony in the Julie Miller case in Oregon
7 regarding mixed files, right?

8 A. No. I don't have granular knowledge
9 of --

10 Q. Okay.

11 A. -- testimony in a case in Oregon. Sorry,
12 my knowledge isn't that fast.

13 Q. You don't know how many mixed files there
14 are, right, in terms of a raw number or percentage
15 of all the files that the big three retain, right?

16 A. No. We examined that particular aspect
17 in our data accuracy analysis. I don't have that at
18 my fingertips, but it's something that, you know,
19 either through the course of a single e-mail or
20 phone call or, you know, reviewing a -- at that
21 time, I mean, any time you look at credit file data,
22 you, of course, realize you're looking at a
23 snapshot, right, I mean, and then you have to look
24 at it longitudinally and, you know, draw conclusions

1 about the prevalence, that things could change, you
2 know, for different reasons, you know, for example,
3 if the policy of a CRA were to change to allow a
4 disputant to assert mixed file and have, you know,
5 that trade line or inquiry deleted based on the
6 assertion alone, that would result in a spike of
7 allegations of mixed files. Because as you're well
8 aware, credit repair clinics would see that as a
9 vulnerability, and they would, you know, begin, you
10 know, challenging everything on the basis of mixed
11 file. So I'm not aware that it's, you know,
12 especially or relatively bigger than other causes of
13 inaccuracies in credit reports, and there are a
14 number. I mean, collections is also a driver of
15 inaccuracies and so on and so forth. But it
16 didn't -- doesn't jump out as, you know, threatening
17 the integrity of the system. I mean, the data is,
18 you know, at the end of the day very accurate,
19 highly accurate and materially so.

20 Q. All right. Well, let's talk about
21 inaccuracy and identify theft, because you agree
22 identify theft is a very big problem in this
23 country?

24 A. Okay. Sure. I mean, identify theft is a

1 crime that's around.

2 Q. But I mean for those of us older than 20
3 or 30, this is something we really didn't even deal
4 with 15 years ago or 20 years ago or at least not
5 often?

6 A. Right.

7 Q. Fair to say?

8 A. I mean, the frequency of identify theft,
9 you can't look at the trend and then say it's a very
10 big problem from an individual perspective. I mean,
11 yes, if my identify is stolen and someone goes to
12 jail in my name and causes all sorts of nightmares
13 from new account creation and -- which is more
14 difficult than existing account take over, then
15 individually identify theft can be a big problem for
16 me again using your terms.

17 But again if someone takes over my credit
18 card and runs up a few charges at Walmart or a big
19 box store and I get a call from, you know, Chase
20 saying are you making these charges and I say
21 absolutely not, and they cancel my card and I get a
22 new one two days later, I'm not sure how big of a
23 problem that is for me. I mean, you know, again, by
24 extension, if it grows, there's more of a risk

1 premium, we pay more, you know, one millionth of a
2 percent on our APR. But what I can say factually is
3 that financial services has been getting better at
4 reducing fraud losses from identify theft.

5 Q. Okay.

6 A. Now, other areas like state governments
7 and healthcare providers aren't doing so well.
8 They're softer targets.

9 Q. Okay. Now you mentioned a problem with
10 someone opening an account in your name. It's going
11 to be a bigger problem for you if it goes on our
12 credit report, right?

13 A. Yeah. So if you've got new account fraud
14 as opposed to existing account take over, that could
15 be -- could be more challenging to clean up. I
16 mean, it's not as easy as the scenario I just
17 described where you get a call from Chase and you
18 get a new card two days later, you would have to
19 contact a bureau, you would have to, you know,
20 freeze your file or put a fraud alert on your file.
21 There are steps you can take that are costless and
22 relatively simple.

23 But yeah to say it would be no burden
24 would be inaccurate.

1 Q. All right. And you agree that identify
2 theft leads to a lot of inaccurate information on
3 credit reports?

4 A. Again, I don't -- I don't know. I mean,
5 I have a predilection for sort of quantifying
6 things, and I'm really uncomfortable with the term a
7 lot.

8 Q. Okay.

9 A. You know, I --

10 Q. What about millions of --

11 A. I -- I --

12 Q. -- inaccurate entries, would you agree
13 with that?

14 A. Again, you know, billions and billions of
15 pieces of information and data elements, I mean, the
16 reality is that the FTC report and our report
17 completely changed the whole discussion of accuracy
18 of credit file data. The reports that were
19 released -- the first generation reports, let's call
20 them, and again I don't want to be dismissive --

21 Q. Well, let's --

22 A. -- of them --

23 Q. -- let me focus on --

24 A. -- but they were --

1 Q. -- my question. Okay.

2 A. But they were -- I am actually. You
3 know, give me an opportunity to complete my train of
4 thought. We're asserting, you know, inaccuracy
5 rates of 40 to 75 percent, which just, you know, on
6 face value is nonsense. We couldn't have a
7 functioning consumer lending system if that were
8 true. But quite apart from that, you know, we did
9 look at in a very detailed manner, as did the FTC
10 report, the different contributors to inaccuracies
11 in consumer credit files in the major repositories.
12 And, you know, there's nothing even approaching the
13 magnitude that was believed prior to our report. So
14 you'll notice that since 2011 and 2012, there
15 haven't been, you know, consumer advocates coming
16 out and saying that ten percent of credit files are
17 inaccurate because of identify theft, because it's
18 not true. It's empirically untrue. Are identify
19 thieves contributing to inaccuracies in credit
20 reports? Absolutely. Is it a big factor that's
21 threatening the integrity of the system? Absolutely
22 not.

23 Q. No, but it can threaten the integrity of
24 one consumer's report; in fact, destroy their

1 financial --

2 A. I've already --

3 Q. -- ability --

4 A. -- attested to that, yes, individually,
5 and then that's really how you have to approach
6 that. It could also have zero impact at all.

7 Q. Well, I mean, you agree having a
8 fraudulent item on your credit report is not zero
9 impact, right?

10 A. Again I'll go back to my earlier example
11 if someone opens up credit and pays it and thickens
12 my file, my credit score could increase. I mean, if
13 I'm a person who is comfortable with that, they
14 might actually benefit from that. I mean, you know,
15 it's just not manicheistic. There's not right or
16 wrong, black or white, you know, hurts, harms.
17 There are lots of shades of gray in this. I mean,
18 you have to understand the context.

19 Q. Yeah, I can't imagine someone would be
20 comfortable being a victim of identity theft, but
21 you think that's possible?

22 A. I do think that's possible. I think, you
23 know, that if -- again if your credit report is
24 populated with trade lines and they're paying them,

1 and that's happened, then, you know, you could be
2 comfortable with that benefit. Personally I
3 wouldn't be. But I'm not here representing the
4 mindset of every individual man, woman or credit
5 eligible adult in this country.

6 Q. All right. Let's talk about Sykes versus
7 Mel S. Harris & Associates, the next case.

8 A. Uh-huh.

9 Q. And you say you think that -- well, you
10 thought -- I wrote down TransUnion, but maybe I made
11 a mistake there.

12 A. Yeah, I think it's TransUnion. And I
13 honestly -- I don't remember these cases. Like
14 they're just -- I mean, I know they dealt with
15 credit reporting and I'm sure we probably did
16 simulations and looked at their credit files and I
17 don't really remember the particulars of these
18 cases. I don't, I'm sorry, it just --

19 Q. But you were testifying on behalf of
20 TransUnion?

21 A. I didn't testify.

22 Q. Okay.

23 A. The list of cases in which I either
24 testified or was deposed is quite short and it was

1 the four, the two IMS, this one and Sony. These are
2 ones in which I was retained. You had ask for
3 anything which I was retained regardless of whether
4 or not I completed a report or submitted a report.
5 So all of these would have been either submitted a
6 report, either an expert report or rebuttal report
7 or wrote something but, you know, it was settled in
8 midstream.

9 Q. All right. And could you supplement this
10 list to put the court, the parties and if you did --

11 A. Yeah.

12 Q. -- submit a report --

13 A. I'm so sorry.

14 Q. Let me ask about the last part. But if
15 you did submit a report --

16 A. Yeah. Yes.

17 Q. Because if you didn't, there really
18 probably isn't much I'd want to ask about.

19 A. Right.

20 Q. Okay. I see 2011, Donna Soutter, a class
21 action against TransUnion. What was that about?

22 A. I don't remember. I don't. I just --
23 they all kind of --

24 Q. How about civil judgments in the state of

1 Virginia, does that ring a bell?

2 A. Oh, right. Right. Right. So yes, so I
3 actually did simulations for that case, and so the
4 issue -- it was again more of looking at the
5 impacts, the credit market impacts, of including or
6 excluding a piece of information or data element
7 and, you know, in my hypothesis was for many
8 persons, you know, just knowing what I know about
9 patterns and behavior and, you know, what's
10 reflected in a credit report leading up to
11 bankruptcy, there are delinquencies starting with
12 mild derogatories and they go into substantial
13 derogatories. And, you know, typically by the time
14 someone files for bankruptcy, their credit's
15 destroyed, so, you know, including --

16 Q. Well --

17 A. -- or excluding a discharged piece of
18 information usually is going to have a minimal
19 impact because they're deep subprime. So again sort
20 of like assessing credit market impacts, right, so
21 that's, I believe, much of what I did in that case.

22 Q. Okay. Now, I believe, you know, but you
23 were the expert. I believe it was about the failure
24 of TransUnion to update judgments that had been

1 satisfied or vacated or otherwise negated.

2 A. Yeah, we're talking about the same thing.

3 Q. Okay. And so you agree that if somebody
4 had a judgment that's been reported on their credit
5 report and then they satisfied it, that it should be
6 reported to satisfied, right?

7 A. Yeah, sure.

8 Q. And if it was reversed or vacated, well,
9 it shouldn't be on their credit reporting, correct?

10 A. Correct.

11 Q. And the reporting of a judgment that's
12 been vacated or reversed could cause harm?

13 A. Yep, absolutely.

14 Q. All right. And that Xerox versus Paul
15 baker printing, what's that case?

16 A. Again I don't remember. This is
17 something to do with -- yeah, I don't remember. I'd
18 have to go back and look. That was four or five
19 years ago, I just --

20 Q. Okay.

21 A. I mean, this would have been like an
22 impact like damages impact assessment sort of an
23 economist perspective.

24 Q. All right. Let's look at your report.

1 A. Sure.

2 Q. All right. Page two. All right. And
3 the first paragraph, paragraph four, and your first
4 sentence is that Equifax's reinvestigation process
5 in response to consumer disputes of inquiries is
6 consistent with established industry practices,
7 correct?

8 A. Uh-huh.

9 Q. Oh, you know, while we're talking about
10 inquiries, why don't we just first distinguish hard
11 and soft inquiries. Okay. Which you do, I believe,
12 in your report. And actually I have here -- you
13 said you read the Equifax policies and if you note,
14 there is a definition of Equifax uses for hard
15 inquiries?

16 MS. ROPER: Robert, are you introducing this
17 as Exhibit 3?

18 MR. SOLA: No, I just want to ask him about
19 it.

20 MS. ROPER: Okay.

21 BY MR. SOLA:

22 Q. And you see that definition?

23 A. Yeah, I'm just reading it. I'm sorry.
24 Yep, okay.

1 Q. All right. And Equifax defines a hard
2 inquiry as an inquiry that result from transaction
3 initiated by the consumer when applying for credit
4 as defined by the SRA, such as a mortgage, credit
5 card, auto loan or personal finance loan, correct,
6 that's the first sentence? And do you agree with
7 that?

8 A. Yes, you read that accurately.

9 Q. Okay. And, I mean -- but you agree that
10 is what a hard inquiry is?

11 A. That seems to me to be a reasonable
12 definition, yes.

13 Q. Okay. So a hard inquiry is a
14 reflection -- well, inquiry means that, at least in
15 the industry parlance, an inquiry indicates that a
16 credit report was provided, correct?

17 A. Yes. An inquiry, I think, indicates a
18 process that a permissible purpose, a credentialed
19 permissible purpose entity such as a lender has
20 obtained consent from the data subject to obtain a
21 copy of that data subject's credit report.

22 Q. Okay.

23 A. So it's -- and that that request was
24 fulfilled.

1 Q. All right. And so a hard inquiry
2 reflects that the consumer went into that creditor
3 to seek credit or some other service and authorized
4 the obtaining of their report?

5 A. Correct.

6 Q. And the way the reports are obtained is
7 the party who wants the report, they're generally
8 known as subscribers, right?

9 A. Correct. Yes.

10 Q. They're the customers of the credit
11 reporting agencies, right?

12 A. Right, yes.

13 Q. And the credit reporting agencies like
14 Equifax, their business is to sell credit reports,
15 right?

16 A. That's one of their lines of business,
17 yes.

18 Q. Okay. And so when a subscriber wants a
19 credit report from Equifax, what the subscriber does
20 is contact Equifax and give identifying information
21 on the consumer --

22 A. Uh-huh.

23 0. -- correct?

24 So that Equifax can find the report that

1 pertains to that consumer?

2 A. Correct. Matching data, yes.

3 Q. Okay. And the subscriber has already got
4 a contract with Equifax to obtain their reports,
5 right?

6 A. Correct.

7 Q. Generally?

8 A. Yes.

9 Q. Well, actually, they do have to have --

10 A. They're --

11 Q. -- contracts?

12 A. Yes. They're credentialed, there's a
13 process --

14 Q. Yes.

15 A. -- and Equifax sends someone to verify
16 that they are who they say they are and that
17 they're -- they've got a permissible purpose and
18 there's a contract that binds, you know, the use and
19 reuse and et cetera, so yes.

20 Q. Okay. And as part of that contract or as
21 a result of that contract, the subscriber is given a
22 code, right?

23 A. Uh-huh. A subscriber code.

24 Q. And the subscriber has to identify their

1 business name and their business address to Equifax?

2 A. Right.

3 Q. Okay. And so when the subscriber makes
4 an inquiry in addition to providing the identifying
5 information on the consumer, they'll provide their
6 subscriber code, right?

7 A. Yeah. There's auto trail information,
8 yeah.

9 Q. And that subscriber code enables Equifax
10 to identify which subscriber, correct?

11 A. Yes.

12 Q. By name and address?

13 A. Right.

14 Q. Okay. And then Equifax provides the
15 report, right?

16 A. Yes, if there is a report on file for
17 that person, it's provided. Otherwise it's a no
18 hit.

19 Q. Okay.

20 A. And they're told there's no file.

21 Q. Okay. That's right. So they look to see
22 if they have a file that matches who they believe
23 the consumer is based on the identifying information
24 and if they find a file, they sell it, right?

1 A. Correct. Well, right, but as you're
2 pointing out, there could be a subscription, I could
3 buy 500,000 over a year and that's just one of the
4 500,000, so it's just already sold. But some buy
5 them one off too, so, yes, it could be -- yes,
6 anyway.

7 Q. Okay. And so then the inquiry is then
8 placed in the consumer's file, right?

9 A. The inquiry is included in the credit
10 report that's shared with the creditor, yes.

11 Q. Okay.

12 A. The hard inquiry is, yes.

13 Q. Okay. Yeah. So a hard inquiry -- so the
14 hard inquiry will indicate the company that got the
15 report, right?

16 A. Correct.

17 Q. Their name and address, right?

18 A. So the hard inquiry would reflect --
19 yeah, it would -- I don't know that -- I don't know
20 that it has the address on the --

21 Q. Okay.

22 A. -- credit report.

23 Q. You don't know that. All right. And
24 it'll have the date, right?

1 A. Okay. Sure.

2 Q. Well, I mean, isn't that true, it has the
3 date?

4 A. Of the inquiry?

5 Q. Yeah.

6 A. I don't know that it does or not, no.

7 Q. Okay. And so on that consumer's file,
8 let's say it was a request from Chase, Chase will be
9 listed and you're not sure, but there may also be
10 the date --

11 A. Yeah.

12 Q. -- that Chase --

13 A. But they're contained for 24 months, so
14 it's within the last 24 months. And if it's a
15 factor in the score, it's 12 months or less old, so.

16 Q. Okay. But the inquiry information, that
17 goes on the reports that Equifax sells to third
18 parties?

19 A. Correct.

20 Q. Okay. And the reason that Equifax --
21 now, Equifax chooses to put that on the report, they
22 don't have to, right?

23 A. Correct. Yes.

24 Q. Okay. They could --

1 MS. ROPER: Objection to form. Go ahead.

2 BY MR. SOLA:

3 Q. Okay. Like there's something called soft
4 inquiries, right, we know those?

5 A. Correct.

6 Q. And Equifax does not put those on reports
7 it sells to third parties?

8 A. That's correct too.

9 Q. Okay. And you agree that the reason
10 Equifax puts the hard inquiries on the reports it
11 sells to third parties is because that's considered
12 part of the consumer's credit history?

13 MS. ROPER: Objection to form.

14 BY THE WITNESS:

15 A. I think the reasons, plural, that they
16 include hard inquiries on reports that are provided
17 to inquirers and consumers are twofold. One, for
18 consumers if the --

19 BY MR. SOLA:

20 Q. Could you -- I just want you to talk
21 about third party reports. This case isn't about
22 reports to consumers. Okay. So I want you to --

23 A. Okay. Well, because --

24 Q. It also just complicates things because

1 they're --

2 A. That's fine.

3 Q. Can I just explain?

4 A. That's fine.

5 Q. There are different reports, aren't they,
6 to consumers versus third parties?

7 A. They are. But hard inquiries are
8 included in both.

9 Q. I know. But soft inquiries aren't,
10 right?

11 A. Correct.

12 Q. Okay. And then --

13 A. But I thought we were talking about hard
14 inquiries.

15 Q. We are. But I just want --

16 A. So --

17 Q. -- to talk about why they're on the
18 reports to third parties.

19 A. To third parties, right. And it is, in
20 fact, because it's a variable that effects the
21 credit profile of an individual, their assessment of
22 risk and their creditworthiness. It's a known
23 predictive variable.

24 Q. Okay. So in other words it's something

1 that the creditors want to know to assess risk?

2 A. Correct.

3 Q. Because what the inquiries show is where
4 the consumer sought credit and how often?

5 A. I think it's used as a predictive
6 variable because it's perceived as a leading
7 indicator of potential financial distress and risk.
8 It's less important, you know, where they've
9 received it, you know, the name of the lender
10 isn't -- isn't a variable that's scored. The number
11 of hard inquiries and the recency of hard inquiries
12 are variables that are scored. But, you know, where
13 you got it is not scored. Now, the type matters
14 because if it's an auto or a mortgage and it occurs
15 within a time frame, they're bundled together. But,
16 you know, that I got it from Chase versus Citi is
17 not anything that really would be relevant at all.

18 Q. Okay. But you agree the number of times
19 a consumer sought credit is some relevant to the
20 creditors risk assessment?

21 A. Yeah, as I've mentioned, the quantity of
22 hard inquiries is a consideration, absolutely.

23 Q. Okay. And that inquiries on -- so let's
24 just say there's an inquiry and it's made by Robert

1 Sola -- I'm sorry, there is an inquiry --

2 A. On behalf of you.

3 Q. Yes. Okay. And then it goes on my
4 credit reporting, right?

5 A. Correct.

6 Q. The hard inquiry? And then when that
7 report's sent out to let's say to Chase they see
8 that inquiry on my file, right?

9 A. Okay.

10 Q. Right. And it's on Robert Sola's file
11 because Robert Sola was the one seeking the credit,
12 right?

13 A. Correct. In your scenario, absolutely.

14 Q. So it's on the file of the consumer whose
15 the subject of the report because it pertains to
16 that consumer, right?

17 A. Yes.

18 Q. And the inquiry results from two things.
19 Well, let me see if you agree with this. The
20 inquiry results from the identification of the
21 consumer from the subscriber, right?

22 A. That -- are you suggesting that the
23 inquiry is enabled because the inquirer has
24 fulfilled all of your customer requirements, that

1 they have said --

2 Q. No, there wouldn't be -- to make an
3 inquiry, you've got to identify the subject, right?

4 A. I'm sorry, the inquiry is enabled because
5 the personal identifying information, the match
6 data, is sent from the inquirer to the credit
7 bureau, is that --

8 Q. Yes.

9 A. Oh, yes. Yes. Sorry.

10 Q. It's a given? Okay.

11 A. We're two people divided by common
12 language sometimes --

13 Q. All right.

14 A. -- so you just have to bear with me.

15 Q. So the inquiry results from one, the
16 identifying information that the subscriber
17 provides --

18 A. Uh-huh.

19 Q. -- right?

20 A. Yes.

21 Q. And then the fact that the report is sent
22 to the subscriber?

23 A. Yes.

24 Q. Okay.

1 A. And that's consistent with what I said
2 earlier, yes.

3 Q. Yeah, okay. And the identifying
4 information that the -- well, we indicated based on
5 the identifying information from the subscriber,
6 that's how Equifax chooses which consumers file to
7 provide, right?

8 A. That's generally how it's done. You
9 match the identifying information of the data
10 subject from the permissible purpose inquirer with
11 the data fields that comprise a credit report or
12 credit file in this case and assemble it and fulfill
13 the request. It's a disclosure, yes.

14 Q. And then Equifax takes the record of that
15 inquiry, puts in that consumer's file whose report
16 was provided, right?

17 A. Yeah. I mean, they haven't -- I'm sure
18 they have it in multiple databases. They've got an
19 audit trail database and, yes, that it would
20 populate a credit file and credit report in the
21 future for either the individual or a permissible
22 purpose third party, yes.

23 Q. Okay. And they put it in the consumer's
24 file, and then if it's a hard inquiry, they also put

1 it on the consumer's report they sell to third
2 parties, right?

3 A. Well, they put it in the file they'd sell
4 to third parties, and that would also be in the
5 report they give to the individuals, yes.

6 Q. And you agree that the inquiry would not
7 arise unless the subscriber furnished certain
8 identifying information on the consumer?

9 A. Yes, if they didn't know the consumer's
10 name, they couldn't provide an inquiry.

11 Q. Yeah. Well, they have to provide certain
12 information beyond name?

13 A. Oh, of course. But I'm just starting
14 with that piece to make your point trivially true,
15 yes.

16 Q. Okay. Would you agree in your view of
17 credit reporting industry that the inquiries are
18 part of the consumer's credit history?

19 A. Yeah, I mean, it's a scored variable on
20 their credit file and reflects an element of their
21 risk profile. So is it a part of their history, I
22 guess, you know, I could understand how one sort of
23 conventional language, you know, it's their behavior
24 over time they're seeking credit, so, you know, yes,

1 conventionally, absolutely. And I --

2 Q. All right.

3 A. And not to belittle that.

4 Q. No.

5 A. When I say that, because credit history,
6 you know, is most frequently understood as how well
7 you've met your past payment obligations. So I want
8 to distinguish inquiries from, you know, what's
9 conventionally understood as credit history. But
10 you know if we're talking about their past behavior
11 over the last two years there was an inquiry as a
12 result of credit seeking behavior, technically it's
13 in the past, so it would be irrelevant data element
14 in, you know, their credit history broadly.

15 Q. Yeah, that's what I mean. History that
16 would include credit seeking --

17 A. Then it's just --

18 Q. Okay.

19 A. It's just the use of jargon, and I want
20 to make sure that we're -- because there is a
21 category if you go to like myFICO.com, there's a
22 credit history, and then they're talking about
23 accounts and did you pay it and derogatories and
24 public -- and so it's not in that FICO category of

1 credit history, they put it, you know, into new
2 credit, right, but --

3 Q. Yeah, so they put it -- inquiries into
4 new credit?

5 A. Yes, so --

6 Q. Okay.

7 A. That's the reason for --

8 MS. ROPER: And just --

9 THE WITNESS: Sorry.

10 MS. ROPER: So on behalf of the court
11 reporter, we just need to make sure that you guys
12 aren't talking over each other so that the record --

13 THE WITNESS: Oh, sorry.

14 MS. ROPER: -- is clear, so --

15 MR. SOLA: Yeah, okay.

16 MS. ROPER: -- Mr. Sola can ask the question;
17 if I object, I will; and then, Mr. Turner, you can
18 give an answer. That way it's easier for the court
19 reporter to take everything down.

20 THE WITNESS: Apologies.

21 BY MR. SOLA:

22 Q. All right. But in the normal use of the
23 word history to reflect past conduct, you agree an
24 inquiry is part of a consumer's credit history?

1 A. Correct.

2 Q. Okay. Let's look at page two, item
3 number four, I read the first --

4 A. Sentence.

5 Q. -- sentence, yes, okay. And we discussed
6 what inquiries are. You indicate inquiries are
7 maintained as a factual record on a consumer's
8 credit report that the credit file was provided to a
9 permissible purpose entity. And then go down to
10 that sentence that says when a consumer disputes an
11 inquiry without alleging fraud or mixed file and --
12 well, actually, I don't want to read that.

13 But you agree that Steed and Summers --
14 well, Steed alleged mixed file, and Summers alleged
15 fraud when they disputed the inquiries, right?

16 A. I'm aware that Summers alleged fraud.
17 I'm aware that in the complaint and deposition,
18 Steve alleged mixed file, although I'm not sure how
19 he represented that in his communication with
20 Equifax. He may have said it's not mine or --

21 Q. Okay. That's fair. Yeah, you don't know
22 if he used that term in his dispute to Equifax?

23 A. Correct.

24 Q. All right. Now, there might be inquiries

1 that appear on a consumer's credit report that don't
2 belong to them, right?

3 A. Yes.

4 Q. Okay. And one example we've used is one
5 that arises from identify theft, correct?

6 A. Correct.

7 Q. Okay. And a consumer might get their
8 credit report and see that inquiry and not recognize
9 it, right?

10 A. Correct.

11 Q. Because they might say Chase, I never
12 went to Chase for credit and they don't know why
13 it's on their report, right?

14 A. Yes.

15 Q. Okay. In fact, I think you indicate
16 these can -- well, let me start again.

17 That consumer could dispute that inquiry,
18 correct?

19 A. Yes, they have that right.

20 Q. Okay. But they wouldn't know if it's
21 identify theft when they disputed it, right?

22 A. They may not, that's correct.

23 Q. They may not. Okay. And you agree that
24 consumers that dispute inquiries even if they don't

1 say they're a mixed file or identify theft, they're
2 entitled to have those disputes investigated,
3 correct?

4 MS. ROPER: Objection to form, calls for a
5 legal conclusion.

6 BY THE WITNESS:

7 A. So, you know, I agree that people may not
8 know the source of an inquiry, that it may have been
9 a third party financier for a retailer and, hey, I
10 got a card from, you know, Saks Fifth Avenue or
11 Target, but I don't know -- I didn't know that it
12 was underwritten by HSBC, and there's this HSBC
13 inquiry, and so they -- they would, you know,
14 exercise their right to contact the credit bureau or
15 HSBC, but let's say in this case they contact
16 Equifax and then they're informed that, in fact,
17 there was a disclosure to HSBC on your behalf and if
18 you -- this wasn't authorized, you should contact
19 them, so they can make a phone call to HSBC with the
20 number provided and they would be told this is for
21 your Saks Fifth Avenue or Target card and then they
22 would uh-huh. You know, it's still not --

23 Q. You really need to listen to my question.
24 My question was if the consumer disputes an inquiry

1 but doesn't indicate fraud or mixed file, aren't
2 they entitled to have that dispute investigated?

3 MS. ROPER: Objection to form, calls for a
4 legal conclusion.

5 BY THE WITNESS:

6 A. Yeah. My assessment of the resource
7 available to the consumer is that the current
8 practices permit them to have that investigated.

9 BY MR. SOLA:

10 Q. My question was: Are they entitled to
11 have --

12 A. Yeah, that's --

13 MS. ROPER: And that's still -- sorry,
14 Mr. Turner. Objection to form, calls for a legal
15 conclusion. Go ahead.

16 BY THE WITNESS:

17 A. Yeah, I'll have to leave the
18 interpretations of the hard inquiry and its -- you
19 know, the requirements under the FCRA to, you know,
20 the legal minds and qualified legal experts.

21 BY MR. SOLA:

22 Q. Okay. Now, your first sentence says
23 Equifax's reinvestigation process in response to
24 consumer disputes of inquiries is consistent with

1 established industry practices, right?

2 A. (No audible response.)

3 Q. Okay. That doesn't make it legal, does
4 it?

5 A. It is consistent with -- so, I mean, I
6 guess theoretically industries -- any industry could
7 have practices that are consistent that may or may
8 not be legal or may or may not be illegal. But
9 again I'm -- I was asked to address whether or not
10 Equifax's specific policy were consistent with
11 industry practices or why they deviated and that's
12 some sort of proxy measure as to the adequacy or
13 sufficiency given the nature of the dispute. And
14 that's what I've assessed.

15 Q. Okay.

16 A. So I'm not offering an opinion on whether
17 or not it's legal.

18 Q. That's right. And if what they do -- you
19 know our claim is that Equifax has violated the Fair
20 Credit Reporting Act, correct?

21 A. I understand that, yes.

22 Q. And I know you're not giving an opinion
23 on whether they complied with the Fair Credit
24 Reporting Act, okay, but if their procedure violates

1 the Fair Credit Reporting Act, of what relevance is
2 it that it's consistent with industry practices?

3 MS. ROPER: Objection to form, argumentative.

4 BY THE WITNESS:

5 A. So again I'm, you know, not assessing the
6 legality. I can, you know, suggest that the
7 adequacy based on consistency with industry
8 practices and given the longstanding nature of these
9 practices and the intense scrutiny to which the
10 three bureaus are now subjected with the CFPB and
11 the 40 plus years of scrutiny under the FCRA, that
12 if all three are doing this, one could reasonably, I
13 think, defensibly infer that it's probably been
14 vetted by regulators and has most likely been found
15 to be illegal. But I'm not offering an expert
16 opinion on the legality. I'm offering this as one
17 way of assessing the adequacy and appropriateness of
18 the dispute resolution process of Equifax in the
19 context of the broader industry.

20 Q. All right. But you agree that if it's
21 illegal, then the fact that it's consistent with
22 industry practices is not a defense?

23 MS. ROPER: Objection to form, asked and
24 answered, argumentative.

1 BY THE WITNESS:

2 A. Yeah, you know, defense, I'm not offering
3 a legal defense of legality or illegality. That's
4 not the objector -- or the objective of this
5 particular opinion.

6 BY MR. SOLA:

7 Q. All right. But you understand the
8 Plaintiffs' claim isn't that Equifax acts
9 inconsistent with its own policies and procedures,
10 right?

11 A. I understand your claim, yes.

12 Q. Yeah. And it's --

13 THE WITNESS: Sorry, if you wanted to object,
14 sorry, I apologize.

15 BY MR. SOLA:

16 Q. Okay. Now look at the second opinion,
17 that's paragraph five.

18 A. Correct.

19 Q. And you say changing the current inquiry
20 dispute resolution process in a manner described by
21 the plaintiffs would be costly and then you go on
22 and on about why you think it's not worthwhile,
23 right? Well, let me just ask: What's the cost
24 you're talking about?

1 A. Okay. So this is a fairly virgin soil in
2 the absence of any cost benefit analysis offered by,
3 you know, either Evan Hendricks or in anything I've
4 read generated by the depositions or the complaint.
5 When we propose a solution, we PERC, for a policy
6 challenge or economic or social challenge, we'll
7 engage typically in cost benefit analysis. And this
8 would involve, okay, what is the change that we're
9 looking to implement? Here, you know, you're
10 looking at basically modifying a system for
11 communicating between furnishers of information on
12 the one hand and 603(p) regulated credit bureaus on
13 the other hand. And so simplistically you could
14 say, well, gee, this is just a matter of coding and
15 sending out a software patch. Maybe. But there's
16 still a cost. But, you know, scratching below the
17 surface, you understand that this is a voluntary
18 reporting system. And this data may not all reside
19 in the same databases and that, for example,
20 furnishers that are also users of credit reports may
21 have their application data in one database that's
22 entirely separate from and subject to different
23 restrictions and different internal policies and
24 access than their account information for an

1 established business customer, the borrower, for
2 example. And so it may not be so simple. And it
3 may not be so simple in terms of, you know,
4 reconciling them and the cost they're going to
5 assume.

6 And then that's also an internal -- and
7 you know how large corporations work. Here's a
8 proposed change from industry from online data
9 exchange and CDIA and the administrators of metro --
10 or of e-OSCAR, it has to go to compliance and
11 business and there are meetings and discussions and
12 it takes time. And that's replicated across the
13 thousands and thousands and thousands of furnishers,
14 not all of which have the same capacity or ability
15 to implement. But that's even --

16 BY MR. SOLA:

17 Q. Okay.

18 A. -- in the best case. No, but you're --
19 you want to hear the cost, so --

20 Q. I want to hear a number. Do you have a
21 number? You said you're into quantitative --

22 A. Right. But I am in a position where I'm
23 looking at I can infer great cost just from what I
24 understand that would be associated with the

1 implementation of the solution. There is no
2 equivalent that's been offered by plaintiffs side.
3 Nothing. It's just been put forward as it's easy to
4 do and dismissive of all of these processes. So
5 that's why I'm -- that's why I'm critical of that,
6 that proposed solution. You know, the second cost
7 would be trying to exhort or persuade inquirers who
8 aren't also furnishers because they're currently not
9 at all associated with the e-OSCAR system and now
10 they would have to adopt that. And I can personally
11 attest to the fact from having many conversations
12 with executives, business side and legal, from
13 furnishers I've tried to exhort to begin reporting,
14 it's not easy. It is costly, it takes a lot of
15 time.

16 Q. How much --

17 A. You have to have a very strong value
18 proposition --

19 Q. You're really -- okay. How much does it
20 cost to join e-OSCAR?

21 A. The cost of joining e-OSCAR?

22 Q. Yeah.

23 A. It's going to vary by individual
24 organization, I mean, depending on the size,

1 depending on their technology, depending on their
2 technical and capacity.

3 Q. Okay. Now, businesses have to bear the
4 cost of complying with the law, you agree with that?

5 A. Yes.

6 Q. Okay. So in other words, if contacting
7 the furnisher of the inquiry information is required
8 by law, then that has to be done even if it costs
9 money, right?

10 A. Yes, absolutely.

11 Q. Okay. Now, and you mentioned it, you
12 said the second thing, it's disruptive for data
13 furnishers, do you see your language there,
14 disruptive for data furnishers?

15 A. Uh-huh.

16 Q. And you mean because Equifax then
17 contacts them about the dispute?

18 A. You're talking about the proposed
19 solution, so it's not --

20 Q. Okay.

21 A. You're talking about two different
22 things, so let me just try and -- what I'm talking
23 about is that the proposed solution would be
24 disruptive to data furnishers.

1 Q. All right. Let me --

2 A. And for all the reasons that I just
3 elaborated upon earlier before I was interrupted.

4 Q. Okay.

5 A. Yes.

6 Q. And you say proposed solution here. All
7 we're -- all I want you to talk about is contacting
8 the furnisher, okay, that's what I'm -- I don't know
9 where you came up with proposed solution. I'm just
10 talking about contacting the furnisher?

11 A. I guess I'm inferring from the
12 depositions and complaint where e-OSCAR is -- adding
13 a field into e-OSCAR was bandied about as a proposed
14 mechanism for communicating with inquirers, which
15 are -- may or may not be furnishers, yes.

16 Q. Well, I think that Equifax was asked
17 about doing that, right?

18 A. Okay.

19 Q. Okay.

20 A. But I don't think it's unreasonable to
21 infer on my part that that was put forward as a
22 possible solution to this perceived problem.

23 Q. Well, okay. Anyway, in terms of
24 contacting the data furnishers, let's say Equifax

1 contacting the data furnishers in regard to a
2 disputed inquiry, how would that be disruptive?

3 A. Oh, well, again I just suggested the
4 processes involved with modifying the e-OSCAR
5 platform which is what this refers to.

6 Q. No, no, they don't have to use e-OSCAR to
7 contact the data furnishers, right?

8 A. Okay. So --

9 Q. So --

10 A. They can call them or they can send a
11 person there or they can e-mail --

12 Q. That's --

13 A. -- or fax.

14 Q. Yes.

15 A. Right.

16 Q. Yes, right, all those ways?

17 A. Sure.

18 Q. Okay. So other than the fact that the
19 furnisher is going to be contacted about a dispute,
20 which is, I guess, some disruption because --

21 A. Yeah.

22 Q. -- they're going to have --

23 A. It's a new process, yeah.

24 Q. Okay. So you agree -- okay. Is that

1 what you mean by disruptive?

2 A. It is. It's a new process, there has to
3 be training, there have to be documents that are
4 updated, I mean, they have to make that as a
5 business decision, so yes.

6 Q. Okay. But I think we all agree Equifax
7 in its form letter tells the consumer to contact the
8 data furnisher --

9 A. Right.

10 Q. -- right? So same disruption, right?

11 MS. ROPER: Objection to form, assumes facts
12 not in evidence.

13 BY MR. SOLA:

14 Q. You're saying that Equifax's contact
15 would be disruptive, but Equifax tells the consumer
16 to contact, so it's really the -- no different
17 disruption if the consumer contacts, right?

18 A. I don't necessarily agree. If you look
19 at the FACT Act and where Congress really recognized
20 the need to disintermediate third parties really, in
21 this case, CRAs to enable direct communications for
22 more efficient functioning of the system. I mean,
23 if I contact the CRA and the CRA contacts and then
24 it goes back to the CRA, and then I'm communicating

1 to the consumer, that's just a multistep process and
2 it's less efficient. And the CRA is not going to
3 have the capacity to provide necessarily all the
4 details that the data subject would know. It just
5 strikes me as far less efficient, you know, sort of
6 logically and intuitively than having direct
7 discourse, which is what Congress recognized and why
8 they've not only enabled but are encouraging
9 consumers to directly contact data furnishers, which
10 are not inquirers by the way in every case, or the
11 inquirers, the same logic would apply. So, you
12 know, I'm not sure it would be more or less
13 disruptive in how you're envisioning it, but I can
14 see that it could be more onerous and tedious and
15 less efficient because the ability of a CRA to
16 communicate all the information, provide all the
17 detail that they may need might take more time, more
18 effort, more expense and is just far less efficient.

19 Q. Okay. Well, first, you're aware that if
20 Equifax contacts the furnisher about a dispute, then
21 Congress mandated that the furnisher must
22 investigate that dispute?

23 A. Okay. That's for trade line information,
24 yes.

1 Q. No, it's for any information.

2 A. No, I'll leave that --

3 Q. Okay. Where do you get trade line?

4 A. I think --

5 Q. Where do you get trade line?

6 A. I think that's -- that's a legal fact
7 that isn't at heart here. But the reality is that a
8 hard inquiry is not a furnished piece of
9 information, it's endogenous to the CRA. So, you
10 know, when you communicate to Equifax that I'm
11 disputing this inquiry and they -- unless, you know,
12 you meet the conditions for mixed file or fraud and
13 you've got an account associated with it that -- I
14 mean, you know, you're talking about a really narrow
15 sliver here where there's a single or a few hard
16 inquiries that are contested in isolation that don't
17 have any supporting evidence and -- but it's
18 endogenous, it's not furnished information, and
19 Equifax would say it was accessed. And if it wasn't
20 you, then, you know, more appropriately, you should
21 go to the inquirer who may or may not be a
22 furnisher.

23 Q. Okay.

24 A. I just -- I just don't see any

1 improvement from -- you know, or any benefit. I see
2 a lot of cost and no benefit over the status quo.

3 Q. Okay. Wait, so you're saying if Equifax
4 contacts a furnisher about a disputed inquiry, the
5 furnisher doesn't have to do an investigation in
6 that?

7 A. That's not what I said.

8 Q. Because you said trade line. That's what
9 I thought --

10 A. No.

11 Q. -- you said.

12 A. You talked --

13 Q. Okay.

14 A. -- about -- you talked about piece of
15 information, and I'm --

16 Q. Okay.

17 A. -- specifying --

18 Q. Let me ask --

19 A. -- that -- you know, again, because I
20 know you're a lawyer and lawyers love to parse.
21 Piece of information technically would include trade
22 line information. It does not include necessarily
23 header information or other information in a credit
24 report that's not furnished, you know, for --

1 information could have been self-reported, it could
2 be created endogenously as in the case of a hard
3 inquiry.

4 Q. Okay. Let me just -- are you saying that
5 if Equifax contacts the source of the inquiry,
6 indicating that the consumer disputes the inquiry,
7 that that source does not have to investigate it,
8 that inquiry?

9 MS. ROPER: Objection to form, calls for a
10 legal opinion.

11 BY THE WITNESS:

12 A. Yeah, you know, I don't know what the
13 obligations, the -- I mean, that's --

14 BY MR. SOLA:

15 Q. Okay.

16 A. -- an interpretation. But what I can --
17 you know, what I talk about is the appropriateness
18 of Equifax's policy given the endogeneity of a hard
19 inquiry and how that's handled. And again, you
20 know, I'd ask if you're talking about hard
21 inquiries, you know, and disputes, you might want to
22 qualify whether or not it's a -- with supporting
23 evidence, mixed file, fraud or just an
24 unadulterated, I'm contesting, you know, this -- the

1 accuracy of this, this inquiry, hard inquiry.

2 Q. Okay.

3 A. Because they're treated differently and
4 then that's significant.

5 Q. Well, but the reason I bring up the --
6 we'll call it the furnisher's obligation is because
7 you brought up that the consumer can directly
8 dispute to the furnisher --

9 A. Uh-huh.

10 Q. -- right, that's what you said? That's
11 an --

12 A. Uh-huh.

13 Q. -- alternative means?

14 A. Uh-huh.

15 Q. But does the furnisher have any
16 obligation to re -- to investigate a dispute from --
17 directly from a consumer --

18 MS. ROPER: Objection to form, calls for --

19 BY MR. SOLA:

20 Q. -- I mean --

21 MS. ROPER: -- a legal --

22 BY MR. SOLA:

23 Q. -- right?

24 MS. ROPER: -- opinion.

1 BY MR. SOLA:

2 Q. Do you know? You said --

3 A. Yeah, so no --

4 Q. -- you didn't know if they did --

5 A. No, I didn't say that.

6 Q. Well --

7 A. They're -- the FCRA enumerates data
8 furnisher obligations, so -- and again I'm not
9 offering an --

10 Q. Okay.

11 A. -- opinion on the application of the
12 obligations or interpretation of those obligations
13 but furnishers of information absolutely have
14 obligations under the FCRA. And that would include
15 reinvestigating in a timely manner, less than 30
16 days, the dispute.

17 Q. Okay. Even if it's an inquiry?

18 MS. ROPER: Objection to form, asked and
19 answered, calls for a legal opinion.

20 BY THE WITNESS:

21 A. I don't agree with that.

22 BY MR. SOLA:

23 Q. Okay. So you don't -- so in other words,
24 you're saying you don't know if the consumer went

1 directly to the furnisher with their dispute whether
2 the furnisher would even be obligated to
3 reinvestigate -- to investigate it, correct?

4 MS. ROPER: Objection, misstates his
5 testimony, asked and answered, calls for a legal
6 opinion.

7 MR. SOLA: No, asking if he knows. That's
8 not --

9 BY THE WITNESS:

10 A. Yeah, no.

11 BY MR. SOLA:

12 Q. Restating your testimony.

13 A. What I'm saying is that there's a
14 difference between a furnisher and inquirer, and
15 that a furnisher -- if there's a dispute of
16 furnished information and it -- you know, I
17 would posit that, you know, to the extent that
18 they're -- an inquiry is something that's generated
19 from that exchange, they would -- they would have an
20 obligation. But again this is a legal matter to
21 respond in a timely manner, so yes. And that would
22 be hence why Equifax and other CRAs are asking the
23 consumer to contact the inquirer when the inquirer
24 is not a furnisher to resolve that issue as well.

1 And if there's no resolution from the inquirer,
2 Equifax and the other CRAs are legally bond to
3 resolve in the consumer's favor just in default. So
4 there should be some satisfaction for the consumer
5 regardless of, you know, an interpretation on an
6 inquiry.

7 Q. Okay. When you say there's no resolution
8 in the consumer's favor, then --

9 A. No, I said there should be if there's no
10 resolution --

11 Q. Oh, okay.

12 A. -- then -- so comma then the CRA would
13 have to default, you know, modify in the consumer's
14 favor if they said delete or, you know, an inquiry
15 really -- it would really just be delete --

16 Q. Yes.

17 A. -- right, so --

18 Q. Okay. But so you would agree that if the
19 consumer disputed to Equifax the accuracy or
20 ownership of an inquiry or really basically just
21 mostly talking about ownership, in other words does
22 the inquiry belong to this consumer?

23 A. Okay.

24 Q. And then Equifax went back to the source

1 of the inquiry, okay, and the source of the inquiry
2 did not verify it, then it would be deleted, right?

3 MS. ROPER: Objection to form, misstates his
4 testimony, asked and answered.

5 BY THE WITNESS:

6 A. Yeah. So my understanding is that a hard
7 inquiry is endogenous and that when they have that
8 as a factual record of access, that actually is the
9 source of the data. It's not furnished information.
10 And if that -- if, you know, it's insufficient if
11 Equifax hasn't determined that it's a mixed file
12 because we have an associated account or if this
13 person has a history of mixed file or it's fraud and
14 there's paperwork, if we're talking about that
15 sliver of circumstances where there's an inquiry
16 dispute, that's completely devoid of any other
17 context other than mixed file or fraud, and they
18 have no internal means of verifying, you know, that
19 it's inaccurate owing to either of those, then it's
20 a matter of factual record. They did make a
21 disclosure. Now, whether it was authorized or
22 unauthorized, the party that's best situated to make
23 that determination would be the inquirer, which is
24 why the data subject would be instructed to

1 follow-up with the inquirer. If they do follow-up
2 with the inquirer, and there's -- there's no
3 response, I would assume as with furnished data that
4 Equifax would as a matter of policy -- and I don't
5 know Equifax's policy on that particular unique
6 scenario, but they would remove that, I mean, the
7 FC -- I mean, again, that's --

8 BY MR. SOLA:

9 Q. Okay.

10 A. -- an interpretation of the FCRA, and I'm
11 not opining on that.

12 Q. You didn't answer my question. My
13 question was: If Equifax contacted the source of
14 the information that made the inquiry, okay, and
15 that source did not verify that the inquiry was
16 accurate, then you agree that under the Fair Credit
17 Reporting Act, correct, information that's not
18 verified as accurate must be removed, if that
19 inquiry would be removed?

20 MS. ROPER: Objection to form, asked and
21 answered, assumes facts not in evidence, calls for
22 legal opinion.

23 BY THE WITNESS:

24 A. I guess I'm going to disagree, because I

1 actually just described that exact scenario in
2 painstaking detail.

3 BY MR. SOLA:

4 Q. You left out the contact to the --

5 A. Of the --

6 Q. -- furnisher.

7 A. -- FCRA? No, I didn't. I didn't.

8 Because I'm not suggesting that an inquirer is
9 always a furnisher. In fact, I'm really trying to
10 establish that they can and frequently are different
11 things. And in this case, in this scenario, the
12 hypothetical scenario that you described, I did, you
13 know, present my assessment of what I believe
14 Equifax's policy would do. Now, I'm not going to
15 suggest at all whether or not that complies with the
16 FCRA. That's not my role. And again I'll continue
17 to beat on that drum whenever you ask a leading
18 question that tries to get me to offer a legal
19 opinion.

20 Q. All right. Let me ask you this. You
21 said one reason you thought it was preferable for
22 the consumer to go to the creditor, okay, I believe
23 was that if the consumer's dispute went from Equifax
24 to the -- we'll call it the furnisher, is that okay,

1 or the source?

2 A. The inquirer, that's what they're called
3 when it's an inquiry whether they're a furnisher or
4 not.

5 Q. Or a subscriber?

6 A. Or an inquirer, that's fine.

7 Q. So you're saying if Equifax -- if
8 plaintiff -- a consumer makes a dispute to Equifax
9 and then Equifax goes to the inquirer, then the
10 inquirer would have to report back to Equifax and
11 then that would determine whether the inquiry stayed
12 on the credit report, right?

13 A. That would determine whether -- so if
14 they don't report back, you're saying are they
15 legally bound? And again --

16 Q. No.

17 A. -- I don't know whether they're --

18 Q. Okay.

19 A. -- legally bound --

20 Q. Let me --

21 A. -- so -- but this is -- this is a very --
22 this is a very unique scenario because, you know,
23 what you're suggesting, it's not mixed file, it's
24 not fraud, it's an inquiry, and they dispute the

1 inquiry and there's no internal means, you know, for
2 Equifax to assess the accuracy of that endogenously
3 generated data point, so they -- the consumer, the
4 data subject then contacts the inquirer and the
5 inquirer doesn't do anything, is Equifax bound to
6 delete that? You know, again, I think that calls
7 for an interpretation of the FCRA. I don't see --

8 Q. Okay.

9 A. I don't see that as furnished data, so I
10 don't know. But, you know, that's certainly
11 something that you should take up with Equifax.

12 Q. Okay. Now, if -- so like in the
13 situation where the form letter gets sent, the
14 consumer's contacted Equifax, Equifax has written
15 back and says if you think it's unauthorized,
16 contact the creditor --

17 A. Okay.

18 Q. -- right? So now another -- the
19 consumer's got to make another dispute --

20 A. Right.

21 Q. -- right?

22 A. To the --

23 Q. Which they wouldn't have had to do if
24 Equifax had --

1 A. -- the inquirer.

2 Q. -- reinvestigated it, right?

3 A. So again because an inquiry is endogenous
4 and it's a factual record of access, you know,
5 Equifax has the internal process, they can look and
6 see if a disclosure was made. And if a disclosure
7 was made, the very fact that they're reporting back
8 that, yes, this disclosure has been made is a
9 reinvestigation, so.

10 Q. But the person like Summers, they're not
11 contesting the disclosure has been made, they're
12 saying it's a result of fraud?

13 A. Uh-huh.

14 Q. Do you understand the difference?

15 A. I do understand the difference.

16 Q. Okay.

17 A. Yes.

18 Q. So the fact that the disclosure has been
19 made isn't at issue, okay?

20 A. I agree. Absolutely.

21 Q. Okay. So the fact -- okay. Now let's
22 get back to -- but you agree that if the consumer
23 has to contact the creditor, that's another task the
24 consumer has to take to try to get the inquiry

1 removed?

2 A. The consumer in cases where they file a
3 dispute that's neither mixed file nor fraudulent nor
4 associated with any commensurate account and --

5 Q. Wait, I have to cut you off, because
6 we're not assuming any of that.

7 A. Okay.

8 Q. Both Steed and Summers, I don't think
9 there's going to be much -- Steed was processed as a
10 mixed file --

11 A. Right.

12 Q. -- and Summers said fraud --

13 A. All right.

14 Q. So when that form letter comes even when
15 people say mixed file or fraud --

16 A. Okay.

17 Q. -- right?

18 A. Okay. So --

19 MS. ROPER: Objection to form, assumes facts
20 not in evidence. Go ahead.

21 BY MR. SOLA:

22 Q. My question was: Isn't having the
23 consumer contact the creditor another task the
24 consumer must take under the system that Equifax has

1 now?

2 A. Right. So the reinvestigation about the
3 endogenous -- I mean, again, you can't -- you're
4 throwing all this out there on inquiries choosing to
5 strip off the context. No, in many cases where
6 there's an inquiry dispute, if there's an associated
7 file that's known to be fraudulent, if there's an
8 associated file that's, you know, trade line error
9 that's known to be a mixed file, then the inquiry is
10 deleted without any necessity for the consumer to
11 contact the inquirer.

12 Q. But, sir, we're here because they
13 weren't.

14 A. Okay.

15 Q. Do you understand that? Steed's inquiry
16 wasn't deleted. Summers' inquiry wasn't deleted.
17 So your statement that it's -- that it would be
18 deleted is just wrong in the facts of this case,
19 right?

20 A. Okay. And so --

21 MS. ROPER: Objection --

22 THE WITNESS: Sorry, sorry, sorry.

23 MS. ROPER: -- to form --

24

1 BY MR. SOLA:

2 Q. I mean, sorry to get a little perturbed
3 but --

4 MS. ROPER: Objection to form, misstates the
5 testimony, misstates the facts in evidence. Go
6 ahead, Mr. Turner.

7 BY THE WITNESS:

8 A. Yeah. So my opinion again is on my
9 understanding of Equifax's policies and their
10 consistency with industry policies and practices
11 and, you know, I've included the details of how
12 Equifax handles inquiry disputes in cases of mixed
13 file and in cases of identify theft or fraud or
14 other kinds of fraud. [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 BY MR. SOLA:

19 Q. They're a very limited -- well, okay,
20 let's just -- we won't argue what the policies are.
21 Those are there, right.

22 Okay. Let me -- okay. So if the
23 consumer does what Equifax suggests and contacts the
24 creditor about the -- I mean, the inquirer about the

1 unauthorized inquiry, okay, and the inquirer let's
2 say says okay we see that doesn't belong to you,
3 that doesn't remove it from the credit report, does
4 it, sir?

5 MS. ROPER: Objection to form, assumes facts
6 not in evidence.

7 BY THE WITNESS:

8 A. Yeah, my understanding is that if there's
9 a communication from the inquirer to Equifax, that
10 the -- the inquiry is not that of the data
11 subject's, that that would be removed.

12 BY MR. SOLA:

13 Q. But the fact that the consumer goes to
14 the inquirer and the inquirer agrees it's wrong
15 doesn't remove it from the credit report, the
16 inquirer has to tell Equifax to remove it, right?

17 A. Yeah, that would need to be communicated,
18 right --

19 Q. All right. So --

20 A. -- because that was a verified
21 inaccuracy, yes --

22 Q. Okay. So --

23 A. -- as opposed to an alleged inaccuracy.

24 Q. Okay. So that's something that the --

1 and that the inquirer would have to do, and they
2 would have to make that communication?

3 A. Yeah. And you raise an important point.
4 Because the reality is that again there needs to be
5 some standards in place for verifying inaccuracy;
6 otherwise, the system -- the gaming that would
7 happen in the system would be paramount, and we
8 would have a serious degradation of the integrity of
9 the database or of the national credit information
10 system, which would result in a contraction of
11 credit and higher priced credit, so it's very
12 important that there be some sort of evidentiary
13 standards for lack of a better term for, you know,
14 verifying the integrity of a dispute.

15 Q. That's right. And there need to be
16 procedures for investigating inquiries that are
17 disputed, right?

18 MS. ROPER: Objection to form, calls for a
19 legal opinion.

20 BY THE WITNESS:

21 A. Yeah, and there are procedures in place
22 that, yeah, I think what we're --

23 BY MR. SOLA:

24 Q. Okay.

1 A. -- debating is the appropriateness and
2 not in a legal context.

3 Q. Okay. Now, you agree that the reason a
4 consumer's disputing inquiries with Equifax is
5 because Equifax is the one reporting the inquiry?

6 A. A reason that the consumer -- I mean,
7 I -- consumers can dispute pieces of information for
8 all sorts of reasons, I mean --

9 Q. Okay. I guess what -- what my point is
10 let's say they went -- let's say --

11 A. And I'm not trying to be evasive.

12 Q. No, no.

13 A. I know you're trying to get little --

14 Q. But we've already talked about Equifax
15 choosing to report the inquiries, right?

16 MS. ROPER: Objection to form, that assumes
17 facts not in evidence.

18 BY THE WITNESS:

19 A. The 603(p) consumer credit bureaus
20 include in credit files inquiries because it's been
21 established that they're predictive of a person's
22 credit risk, so it's a data element that's included
23 on a credit file, yes.

24

1 BY MR. SOLA:

2 Q. Okay. Now, isn't it logical if a
3 consumer wants something off their Equifax credit
4 report that they contact Equifax to get it off?

5 A. Absolutely.

6 Q. That's right.

7 A. And that's the first -- and then it's an
8 endogenous piece of information and it's -- if there
9 was a disclosure, then it's verified. If it's part
10 of a mixed file or it was part of fraud, then they
11 have internal processes and procedures in place to
12 remove the account information and the associated
13 inquiry information.

14 THE WITNESS: Also, I'm sorry, it's been a
15 little over an hour since our last break.

16 MR. SOLA: Yeah, you want a break?

17 THE WITNESS: Are we planning to break for
18 lunch at any point, or do you want to --

19 MR. SOLA: Well, I don't want to --

20 MS. ROPER: Let's go off the record.

21 (WHEREUPON, a recess was had from
22 12:22 p.m. to 12:35 p.m.)

23 BY MR. SOLA:

24 Q. Now, you used this term, something with

1 an e, endogenous, or is that --

2 A. Endogenous.

3 Q. Okay. And what do you mean by that?

4 A. That it's a data element that's created
5 by Equifax internal to Equifax, that it's not
6 externally provided or exogenous, that it's not a
7 furnished piece of information. So it's, you know,
8 endogeneity and it's common in economics.

9 Q. Okay. But that doesn't affect the
10 obligations of Equifax to investigate if it's
11 inaccurate, right?

12 MS. ROPER: Objection to form, calls for a
13 legal opinion.

14 BY THE WITNESS:

15 A. So my opinion would be about the
16 appropriateness of Equifax's current policies and
17 since it's endogenous, I feel it's entirely
18 appropriate for Equifax to rely on internal means of
19 reinvestigation as opposed to having to contact an
20 inquirer that's been suggested at least in my
21 interpretation of materials presented by plaintiff.

22 BY MR. SOLA:

23 Q. Okay. But Equifax tells the consumer to
24 contact the subscriber?

1 A. After they've confirmed the factual
2 record of access, yes --

3 Q. Okay.

4 A. -- so subsequent to.

5 Q. So Equifax is basically conceding that
6 the inquirer may have information that would bear on
7 the accuracy of the inquiry?

8 MS. ROPER: Objection to form, misstates his
9 testimony.

10 BY THE WITNESS:

11 A. Yeah, I think Equifax is suggesting they
12 verify there's been a disclosure to the inquirer,
13 and if you think it's not authorized, then you, the
14 data subject, and the inquirer may be able to sort
15 that out, because they have application data that's
16 not shared with -- with Equifax, and there are other
17 means they have to sort out the ownership issue
18 that -- as you label it, yes.

19 BY MR. SOLA:

20 Q. Okay. But my question is: Equifax is
21 conceding that the inquirer may have information
22 that's relevant to the accuracy of the disputed
23 inquiry?

24 MS. ROPER: Objection to form, asked and

1 answered, calls for a legal opinion.

2 BY THE WITNESS:

3 A. I think they're suggesting that the
4 inquirer may have information as to the ownership,
5 but the fact that there was a disclosure to that
6 inquirer is accurate, no, that's a factual record of
7 access.

8 BY MR. SOLA:

9 Q. Okay. But it -- now -- well, let me --
10 all right. Go to page three, paragraph seven. It
11 talks about harms, you see that?

12 A. I do, yes.

13 Q. Okay. Okay. You indicate a hard inquiry
14 can be a factor in a person's credit score but is
15 generally a minor one, right?

16 A. Correct.

17 Q. Okay. But just one inquiry can lower a
18 consumer's credit score, correct?

19 A. It may or may not. It depends on a whole
20 host of other variables, but it can, yes.

21 Q. Yeah, in fact, doesn't FICO say that one
22 inquiry could lower your credit score but probably
23 not more than five points?

24 A. I think the preface to the FICO --

1 Q. Let me restate --

2 A. -- statement is for --

3 Q. -- that. I think I misspoke.

4 A. Okay.

5 Q. I'll stop, because I don't want to --

6 A. No, that's fine.

7 Q. I think the language is that it may lower
8 your credit score but likely less than five points,
9 is that fair to say?

10 A. No. I think the important qualifier is
11 for some people, and then also may. So that's
12 consistent with what I've represented. And by the
13 way, is distinct and different from what Evan
14 Hendricks represented that it always lowers your
15 credit score. And we touched on that earlier.

16 Q. And as we pointed out, that the person
17 making the credit decision, they consider the
18 inquiries in their risk assessment, right?

19 MS. ROPER: Objection to form, misstates his
20 testimony.

21 BY THE WITNESS:

22 A. A lender, you know, would consider credit
23 file contents and could include a credit bureau
24 score that would consider inquiries in a lending

1 decision, that's accurate, yes.

2 BY MR. SOLA:

3 Q. And we said how an inquiry reflects where
4 the consumer has sought credit, right?

5 A. An inquiry is a record of access that
6 would be indicative of a data subject seeking some
7 sort of credit or other -- yeah, yes, correct.

8 Q. Okay. And where that inquiry is
9 inaccurate, in other words, it doesn't belong to
10 that consumer because of identify theft in one
11 example then that inquiry misrepresents that the
12 consumer sought credit someplace that they actually
13 didn't, right?

14 A. If it's an inaccurate piece of
15 information, it would misrepresent that they were
16 seeking credit from some place that they weren't,
17 yes.

18 Q. Okay. And you agree that that type of
19 inaccurate information shouldn't be on credit
20 reports to third parties?

21 MS. ROPER: Objection to form.

22 BY THE WITNESS:

23 A. Sorry, I should have pods more. Yeah, I
24 mean, I would just agree that I think it's

1 universally recognized that credit reports should be
2 as accurate as possible, so the ability that any
3 party has, the data subject, the furnisher, the
4 credit bureau to improve the accuracy of a credit
5 report should be pursued, yeah, and, you know, sure.

6 BY MR. SOLA:

7 Q. All right. So you agree, inaccurate
8 inquiries shouldn't be reported?

9 MS. ROPER: Objection to form, calls for a
10 legal opinion.

11 BY THE WITNESS:

12 A. I think all parties interests would be
13 served if there were a practical means of improving
14 the quality and accuracy of any data element or
15 trade line, yes, I mean, including but not limited
16 to inquiries.

17 BY MR. SOLA:

18 Q. Okay. Page nine. All right, it actually
19 starts at the bottom of page eight with your --

20 A. Bottom of page eight, sorry.

21 Q. Yeah, the sentence that is inquiry data
22 was found to contain useful information for risk
23 assessment that is not completely substitutable with
24 other data found in a consumer's credit file?

1 A. Yes.

2 Q. Okay. And to put it in context, you're
3 talking about why credit scoring models factor in
4 inquiries, right?

5 A. Correct.

6 Q. Okay. And you agree that they -- when
7 they factor them in, it never can help -- can raise
8 the score, right?

9 MS. ROPER: Objection to form, assumes facts
10 not in evidence.

11 BY THE WITNESS:

12 A. In the United States.

13 BY MR. SOLA:

14 Q. Yeah.

15 A. That's accurate. It can never raise a
16 score, yes.

17 Q. Okay. So inquiries are considered a
18 negative item, right?

19 A. I think that depends on the context
20 again. This is why their modelers have developed
21 bundles when they recognize that a consumer is
22 competitively shopping or investing and doing
23 research on rates and terms for mortgage or auto
24 loans. There's a recognition that that's a positive

1 thing, so they're bundled and they count as one as
2 opposed to counting, you know, six or eight or ten
3 or 12. So I think that they're not always
4 considered to be negative. I think that decision
5 suggests that there's a recognition that there's
6 responsible credit behavior happening.

7 Q. Okay. When you're talking about bundling
8 and shopping, I think what you're saying is
9 sometimes consumers when they're seeking credit they
10 might go to multiple sources to see where they can
11 get the best rate, right?

12 A. Yes.

13 Q. And so the credit scoring models, if they
14 see multiple inquiries around the same time, they
15 won't count those all separately, they'll bundle
16 them and consider it one inquiry, right?

17 A. For home mortgage or residential mortgage
18 and auto, yes, but not for credit cards, for
19 example.

20 Q. Okay. And the reason they bundle them
21 into one is essentially not to penalize the consumer
22 for shopping around?

23 A. That's one way of saying it, yes.

24 Q. Okay. Because if they counted them as

1 multiple inquiries, that could lower the credit
2 score?

3 A. It would have more of an impact on their
4 score than bundling, yes.

5 Q. Than one?

6 A. Right.

7 Q. Okay. But the one could lower their
8 credit score, right?

9 A. It could. There are also situations
10 where it wouldn't, so we've discussed that as well
11 before.

12 Q. Yeah. Okay. Getting back to the top of
13 page nine where you talk about the reason the
14 inquiry data is considered, your first full sentence
15 on that page nine, you say as such use of inquiry
16 data in credit scoring improves risk assessment,
17 which, in turn, enables sounder lending and
18 increased access to credit?

19 A. Yes.

20 Q. Okay. But to the extent that the inquiry
21 is false, then it undermines accurate risk
22 assessment, right?

23 A. Again, you know, statements like this are
24 sort of trivially true out of context but any

1 inaccurate variable that's factored into a scoring
2 model would degrade or distort maybe because it
3 could be in either direction, if we're talking about
4 inquiries, it's possible it could lower a score
5 unfairly because the inquiry didn't happen. It's
6 also possible, as I said before, if it happens in a
7 bundle, it would have no impact on the score.

8 Q. And so the accuracy of credit reports is
9 important not just to the consumer but also to the
10 credit granter, correct?

11 A. Yes, that's true.

12 Q. Because they're making a business
13 decision assuming the report's accurate, correct?

14 A. Correct.

15 Q. And then you agree that if there are
16 false inquiries, that could inaccurately lower the
17 score?

18 A. It may. It may not.

19 Q. Yeah.

20 A. Yes.

21 Q. Now, in paragraph 30 -- 21, you're
22 talking about an explanation as to why hard
23 inquiries and future negative outcomes such as
24 delinquencies are -- have a relationship?

1 A. Yes.

2 Q. Okay. And you mention because looking at
3 the number of credit inquiries enables consumers to
4 be identified who are in financial stress, see that?

5 A. Yes.

6 Q. Okay. In other words, you mean if people
7 are in financial stress, then they might be looking
8 for credit more than people that aren't, is that
9 right?

10 A. Yes.

11 Q. Okay. And so then again if an inquiry
12 doesn't accurately reflect the consumer's seeking
13 credit because it's false, then it makes them look
14 like they're in stress when they're really not?

15 A. It could. I mean, it would have to
16 exceed a certain threshold, so one or two errant
17 inquiries is not going to create the impression of
18 financial distress.

19 Q. Okay. But it still will inaccurately
20 represent the consumer's credit history?

21 A. If it's an inaccurate inquiry and again
22 depending on the context, I mean, if it occurred --
23 if it was an auto or mortgage and it occurred in the
24 period where they were competitive shopping, it

1 wouldn't have any impact at all. But it's
2 potentially something that could have a minor effect
3 on their credit score, which may or may not be
4 material.

5 Q. All right. Turning to page 22 -- I mean
6 page ten, item 22.

7 A. Yes.

8 Q. Okay. And there you're talking about the
9 impact on the credit score, right?

10 A. The whole paragraph?

11 Q. Well --

12 A. Yes. Yes. So yes, the -- yes, that
13 inquiries are in an ensemble of considerations that
14 FICO has labeled as new credit, yes, and that
15 they -- their own -- this is just quotes from my
16 FICO, yes.

17 Q. Okay. And that new credit category,
18 which includes inquiries, accounts for ten percent
19 of the score?

20 A. Yes. But that the new credit is a pretty
21 nuanced category and inquiries are, you know, part
22 of that. But not the ten percent. So it would be a
23 subset of the ten percent, yes.

24 Q. All right. And the FICO scores go from

1 300 to 850 --

2 A. Yes.

3 Q. -- is that right?

4 A. Yes.

5 Q. Okay. And so --

6 A. And now VantageScore.

7 Q. And now VantageScore, okay. And so the
8 worst score you can get is 300, is that right?

9 A. Correct.

10 Q. And the best is 850?

11 A. Correct.

12 Q. So it can vary by 550 points?

13 A. Correct.

14 Q. And ten percent of 550 is 55 --

15 A. Yes, sir.

16 Q. -- right? And that's I think you alluded
17 to earlier, that you had put in 85 but you wanted to
18 correct it to 55?

19 A. Yes.

20 Q. Okay. So inquiries could affect a
21 consumer's credit score by up to 55 points?

22 A. No. Because inquiries are not all of new
23 credit.

24 Q. Well, what if there isn't anything else

1 but inquiries in the new credit category?

2 A. It would not affect it by 55 percent,
3 because it wouldn't be -- it says up to ten percent,
4 but then it wouldn't -- it wouldn't -- it just
5 wouldn't be weighted that way.

6 Q. Okay. But any effect a false inquiry
7 has -- well, let me -- how much could it affect it
8 then if it's not 55 points?

9 A. I mean, I don't know FICO's proprietary
10 weights, I just -- I don't know. I built models in
11 different environments. I built them in Australia,
12 New Zealand and India, so -- and they're weighted
13 differently because they have different systems and
14 different other data assets, and so -- but I just
15 can't answer. I can't speak for FICO. But what I
16 can suggest is that it's less than ten percent.

17 Q. All right. Less than ten percent, so you
18 think less than 55 points?

19 A. Yes.

20 Q. All right. And that's just FICO, right?

21 A. Correct. Well, and VantageScore is in my
22 report, it's five percent, so --

23 Q. Okay.

24 A. -- you know, yes. It's not -- it's a

1 consideration, but it's not a major consideration.
2 It's not comparable to utilization rate, for
3 example, so yes.

4 Q. All right. And then other scores, you
5 would have different scoring models, right?

6 A. Yeah. And it's conceivable, by the way,
7 as with the models we developed for Australia and
8 New Zealand that some models at some lenders in the
9 United States may consider inquiries positively,
10 it's conceivable.

11 Q. Or they might count for 20 percent of the
12 score --

13 A. They may.

14 Q. -- right?

15 A. That's right.

16 Q. Then you quote from the FICO website that
17 says for most people one additional credit inquiry
18 will take less than five points off their FICO
19 score?

20 A. Yes, for most people, yes.

21 Q. Okay. So just one inquiry for most
22 people will lower their score, you agree?

23 A. Just one inquiry for most people, and
24 most is just 50 percent plus one, could lower their

1 credit score by up to five points. That could be
2 one point, that could be two points, yeah,
3 absolutely.

4 Q. Actually, you said could, but FICO says
5 will?

6 A. Will. All right. Will. Could be one
7 point --

8 Q. So for the majority --

9 A. But it's also for most people. I think
10 we need to recognize there could be a nontrivial
11 minority who have no impact, zero.

12 Q. I understand. But you would agree that
13 that's harm, that lowering of that score is harm?

14 A. No, I wouldn't agree. I would not agree
15 at all.

16 Q. Isn't the higher the score, the better
17 terms for your credit?

18 A. Again that's an extremely simplified
19 understanding of credit scores. Stripped of context
20 and talked about in a theoretical manner. I mean,
21 if there's no permissible purpose activity, if an
22 individual doesn't look at their credit report, if a
23 third party doesn't review it and it it's deleted in
24 the time frame or even after one year when it's no

1 longer scored, it's hard for me to imagine a
2 scenario in which that could conceivably and
3 reasonably be considered a harm.

4 Q. So am I correct, your opinion is having a
5 lower credit score because of a false inquiry on
6 your credit report is not harm?

7 A. My opinion is that if no third party
8 accesses your credit file during the 12 months after
9 the false inquiry is included in your credit report
10 and you've done no credit seeking behavior and you
11 don't look at your credit report in that 12 months,
12 there is no harm, absolutely.

13 Q. Okay. How about where it lowers your
14 credit score that does go to some third party, then
15 you agree there's harm?

16 A. No. Even in that, it depends on the
17 circumstances. As I've discussed earlier when we
18 began this deposition, if you're a person who has
19 only inquiries on your credit report, then you're
20 not generating a score and you're not harmed. If
21 you are a person who has the lowest possible score
22 of 300, another inquiry is not going to lower your
23 score, and you're not harmed. If you're a person
24 who's been immaterially impacted, and this is

1 important, because this is where the regulators and
2 advocates and everyone has shifted their attention,
3 it's materiality, you know, my credit score could be
4 lowered by a single point.

5 And if I'm on that threshold, then that
6 could improve or diminish my credit standing, and it
7 could be consequential. Similarly, if I'm deep
8 subprime or high super prime, my score could change
9 by 50 or even 100 points, and it would not affect
10 the eligibility decision, the accept, reject or the
11 terms I'm offered, so it really depends. It depends
12 on a lot of things. And again the age of the
13 inquiry, the other contents of the credit report,
14 the type of loan I'm applying for, you know, that
15 I'm applying for a mortgage re-fi and I've got false
16 inquiries about DirecTV --

17 Q. Okay. But let --

18 A. -- I mean, it's a manual process. But,
19 no, you're asking me --

20 Q. No.

21 A. -- that I --

22 Q. No, I don't --

23 A. -- was harmed --

24 Q. You're bringing --

1 A. -- and I'm telling you it doesn't, I
2 mean it --

3 Q. Okay. Let me --

4 A. -- it's just not that simple.

5 Q. Let me ask the question again. I'm
6 talking about lowered score, and you said somebody
7 that's already --

8 A. It doesn't -- I know what you're talking
9 about --

10 Q. Okay.

11 A. -- and I've answered the question. A
12 lowered score does not necessarily result in a harm.
13 It's a lower score. You could be receiving exactly
14 the same terms, get exactly the same decision, so I
15 don't understand how you're harmed, it just -- you
16 can't convince me that there's a harm.

17 Q. Okay. So that's what --

18 A. My score does --

19 Q. -- I can't convince you --

20 A. My score varies --

21 Q. Okay.

22 A. -- from 700 to 750 in a week possibly. I
23 don't -- I mean, I'm -- you know, I'm not applying
24 for credit, how am I harmed?

1 Q. Okay. Again my question was: Is it your
2 opinion that where an inaccurate inquiry lowers the
3 consumer's credit score, and that lowered score is
4 then reported to a third party --

5 A. Correct.

6 Q. -- there is no harm?

7 A. And again I've answered this question.
8 It depends on a whole host of other variables. It's
9 very likely, in fact, because the minority of people
10 are along the cut off point that the impact from a
11 single inaccurate hard inquiry, which is negligible,
12 will materially affect them. So in that case, there
13 is no harm.

14 Q. Okay. And by harm there, you're meaning
15 paying a higher interest rate or be denied credit,
16 is that what you mean?

17 A. Yeah, that you're getting terms that
18 would differ from the terms you would have received
19 if that errant inquiry weren't on your credit
20 report. The old but for in legal terms.

21 Q. All right. But you'd agree you cannot
22 say an inaccurate inquiry won't harm a consumer?
23 You can't make that generalization, right?

24 MS. ROPER: Objection to form, asked and

1 answered many times.

2 BY THE WITNESS:

3 A. Again I've already discussed a number of
4 scenarios whereby inaccurate inquiry wouldn't harm
5 an individual, that they've got the lowest score,
6 that their inquiry only -- that it's bundled because
7 of the timing, it doesn't count at all, so it's
8 just -- you know, yes, I disagree with that
9 statement.

10 BY MR. SOLA:

11 Q. And you agree, though, that the number of
12 inquiries by itself could be a reason for credit
13 denial?

14 A. Yeah, absolutely.

15 Q. Now let's go down to --

16 MS. ROPER: Robert, the food is here.

17 MR. SOLA: Oh, sure. Sure. Break for lunch?

18 (WHEREUPON, a recess was had from
19 12:57 p.m. to 1:18 p.m.)

20 BY MR. SOLA:

21 Q. Mr. Turner, my understanding is Equifax
22 puts hard inquiries on a consumer's report for two
23 years, is that right?

24 A. Correct.

1 Q. Okay. But it can report them longer if
2 it wants to, correct?

3 MS. ROPER: Objection to form, assumes facts
4 not in evidence.

5 BY THE WITNESS:

6 A. I don't know that there's a longer
7 constraint on that. I mean, I suppose they could if
8 they wanted to, yeah.

9 BY MR. SOLA:

10 Q. And you say FICO only considers hard
11 inquiries for one year, is that right?

12 A. Correct.

13 Q. And you mean in terms of their credit
14 scoring model?

15 A. Correct.

16 Q. Now, Mr. Steed was -- well, let's assume
17 Mr. Steed was only disputing one inquiry, all right?

18 A. Okay.

19 Q. That one inquiry could have lowered his
20 score, right?

21 A. I did not see his credit file or credit
22 report, but, yes, that's one of the options for the
23 impact it could have had, yes.

24 Q. Okay. And if Summers was disputing three

1 inquiries, that could have lowered her score more
2 than five points, right?

3 A. That's absolutely a possibility, yep.
4 Yes. Sorry.

5 Q. Are you aware of any time limit as to how
6 long Equifax could report inquiries?

7 MS. ROPER: Objection to form.

8 BY THE WITNESS:

9 A. I think I've answered that. I mean, you
10 know, their current policy is they keep them on
11 record for two years. That's, I think, primarily
12 related to modeling and that the primary function of
13 the inquiries is a signal of distress, and, you
14 know, over time if someone's still making good on
15 their obligations, then that's not the significance
16 of the signal. That's why it's diminished even
17 after six months and why it's not scored after a
18 year and why it's removed after two.

19 BY MR. SOLA:

20 Q. Okay. Just to move it along, my question
21 was: Are you aware of any limit on the amount of
22 time?

23 A. No.

24 Q. I just think if we -- if you answer my

1 question --

2 A. Okay.

3 Q. -- we'll get out of here faster.

4 A. Got it. No.

5 Q. Now, the e-OSCAR system, that's an
6 electronic system that's been devised by the three
7 major credit reporting agencies to communicate with
8 furnishers, right?

9 A. You know, with Innovis, but yes.

10 Q. And Innovis too --

11 A. Yeah.

12 Q. -- the fourth agency?

13 A. Right.

14 Q. And all the major -- let's say all the
15 large banks, large lending companies, they're part
16 of e-OSCAR, right?

17 A. The furnishers that are also inquirers,
18 yes.

19 Q. Yeah. And so you'd agree most person
20 making inquiries are creditors or furnishers that
21 are part of e-OSCAR?

22 A. I don't know the exact ratio, but there's
23 a very significant portion of inquirers who aren't
24 furnishers, they're, you know -- this wireless phone

1 companies and Verizon, AT&T, Cingular, T-Mobile,
2 landline, cable TV, and electric utility companies,
3 gas, water, electric, and these are organizations
4 that have hundreds of millions of customers, and
5 they make inquiries, and so they're a very
6 nonsignificant minority, but I would say the
7 majority are absolutely credit file pulls, yeah,
8 for --

9 BY MR. SOLA:

10 Q. Okay. But they're --

11 A. -- credit decisioning.

12 Q. The majority of the people making
13 inquiries are part of e-OSCAR, you agree with that?

14 A. The majority of inquiries would be from
15 creditors that would be on e-OSCAR. But again not
16 to diminish that there's a very large number of
17 inquirers that aren't furnishers that account for
18 very possibly hundreds of millions of inquiries
19 annually.

20 Q. Okay. But isn't Verizon a furnisher?

21 A. Verizon has begun recently becoming a
22 furnisher for wireless or I guess it's landline.
23 They just started with Equifax, yeah, so that's a
24 recent development.

1 Q. Okay.

2 A. And I think AT&T as well, but yeah.

3 Q. All right. And when you're talking about
4 some of these inquirers that have hundreds of
5 millions of customers, you're referring to these
6 either cable or telephone companies, right?

7 A. And energy utility companies, yes.

8 Q. All right. Now, and energy utility
9 companies may start furnishing through these -- to
10 the bureaus, right?

11 A. I very much welcome that outcome,
12 absolutely. I've been fighting for that for years.

13 Q. And if they start furnishing, they'll be
14 part of e-OSCAR, right?

15 A. Yes, they would in all likelihood become
16 part of that platform, yes.

17 Q. And now even these companies that aren't
18 part of e-OSCAR, they're subscribers who have
19 contracts with Equifax, right?

20 A. Or one of the bureaus if they're pulling
21 reports, yes.

22 Q. Okay. But since this case is about
23 Equifax's --

24 A. Yeah, sure.

1 Q. -- inquiries, then you agree those
2 companies that are making inquiries to Equifax
3 already have a contract or relationship --

4 A. Yes.

5 Q. -- with Equifax? Yes, okay.

6 And Equifax, if it chooses, it could say,
7 well, as part of being an inquirer, you've got to
8 respond if we send you a notice of dispute?

9 A. They could.

10 MS. ROPER: Objection to form, assumes facts
11 not in evidence.

12 BY THE WITNESS:

13 A. But it wouldn't be a legal obligation.
14 They could do that, but it also could deter
15 business. I mean, I've been with the inquirers that
16 aren't furnishers, and they look at data furnisher
17 obligations under the FCRA as being very onerous
18 and, you know, they maybe decide they'll use other
19 means. They could start requiring larger security
20 deposits or contracting the service they offer in
21 the competitive dereg environment. There are all
22 sorts of other outcomes that, you know, they may not
23 respond favorably to a requirement from Equifax.

24

1 BY MR. SOLA:

2 Q. They could choose just not to get credit
3 reports is what you're saying?

4 A. They could absolutely choose that.

5 Q. Okay. And just try to assess their
6 customers based on other means?

7 A. Application data, other databases, I
8 mean, we're in an era of big data now, it could be
9 unstructured data, sure.

10 Q. And Equifax, they have the -- because
11 they know all these inquirers, they have a
12 capability to communicate with them, right?

13 MS. ROPER: Objection to form, assumes facts
14 not in evidence.

15 BY THE WITNESS:

16 A. I mean, any person has a capability of
17 communicating with any other person, it's just the
18 degree of challenge and difficulty and relevance,
19 and so it's not just Equifax picking up the phone
20 and calling and saying hey did you make this injury,
21 that's again an oversimplification. So yes,
22 theoretically any credit bureau could design a
23 program that could communicate facts to another
24 party, but that doesn't necessarily mean that's the

1 optimal outcome, but yes.

2 BY MR. SOLA:

3 Q. Now, in paragraph 24 on page 11, you say
4 the e-OSCAR system was developed by the three
5 nationwide CRAs and Innovis as a means to enable
6 efficient large scale dispute resolution?

7 A. Yes.

8 Q. Okay. By efficient, you mean fast,
9 right?

10 A. You know, that's one consideration, time
11 is one consideration.

12 Q. All right. And there's some furnishers
13 that aren't on the e-OSCAR, isn't that true?

14 A. It's possible. I mean, that used to be
15 more prevalent as they were, you know, graduating to
16 toward e-OSCAR. But I'm unaware of any significant
17 furnisher. I mean, there might be some community
18 lender or credit union, small credit union somewhere
19 that's technologically constrained, but it would be
20 the exception and not the norm.

21 Q. Now, e-OSCAR, that system, you indicate
22 it was developed by the three CRAs and Innovis,
23 right?

24 A. Yes.

1 Q. So they can change it, right?

2 A. Sure, that's theoretically possible,
3 absolutely.

4 Q. In fact, they have changed it
5 significantly, haven't they?

6 A. Absolutely.

7 Q. Okay. And you're aware -- are you aware
8 of a change, oh, I think about ten years ago, where
9 they added a box called FCRA relevant information to
10 the ACDB form?

11 A. I'm familiar with that, not in great
12 detail, but yes, I'm aware of it.

13 Q. Okay. And that allowed the CRAs to put
14 additional information they had received from the
15 consumer into the notice of dispute to the
16 furnisher, right?

17 A. Correct.

18 Q. Okay. And then I think you're probably
19 aware that e-OSCAR was changed to allow the CRAs to
20 attach documents?

21 A. Upload data, yes.

22 Q. Okay. And that again was one reason that
23 was done was so that information or so that
24 documents that were received from the consumer whose

1 making the dispute could be forwarded to the
2 furnisher, right?

3 A. Yes.

4 Q. Okay. And both of those changes were to
5 enhance the thoroughness of the reinvestigation
6 that's being conducted into the consumer's dispute,
7 wouldn't you agree?

8 A. Seems reasonable, yeah.

9 Q. Okay. Now, that FCRA relevant
10 information box, are you aware of any reason why
11 Equifax could not put the dispute of the consumer --
12 the consumer's dispute of the inquiry into that box?

13 MS. ROPER: Objection to form, assumes facts
14 not in evidence, misstates test -- sorry, that's it.
15 Go ahead.

16 THE WITNESS: You done?

17 MS. ROPER: Yes. Sorry.

18 BY THE WITNESS:

19 A. Okay. You know, from a technical
20 perspective, it's a matter of programming, right,
21 but I mean as I discussed earlier, this just isn't
22 simply about programming. But, sure, I mean, you
23 can put in an unlimited number of fields for
24 communication in a platform, absolutely.

1 BY MR. SOLA:

2 Q. Okay. And then also if a consumer let's
3 say wrote a dispute by letter, would that include
4 the disputes of inquiries, Equifax could attach that
5 letter to the ACDB form that's sent through the
6 e-OSCAR system, right?

7 A. Sure, yeah.

8 Q. Okay. Now talking about -- turn to page
9 12. No, it might not be specifically in that
10 paragraph. But I want to talk about what you
11 furnished information versus inquiry information.

12 A. Sure.

13 Q. Okay. And you understand that credit
14 bureaus report public record information, right?

15 A. Uh-huh.

16 Q. Like Equifax, it reports a civil court
17 records, right?

18 A. Correct.

19 Q. Okay. It doesn't report criminal
20 records?

21 A. No.

22 Q. So it chooses which public records it
23 wants to report, right?

24 A. Well, right, within the limits of the

1 law, correct.

2 Q. Okay. And the civil courts, they don't
3 report their records to Equifax, do they?

4 A. There's -- sorry, go ahead. You were
5 going to object. There is an intermediary.

6 Q. So in other words, the creator of those
7 records doesn't furnish that information, doesn't
8 it?

9 A. That would --

10 MS. ROPER: Objection to form. Go ahead.

11 BY THE WITNESS:

12 A. I mean, you know, given the intermediary
13 as I understand, yes, that's right.

14 BY MR. SOLA:

15 Q. Okay. In other words, Equifax either
16 examines the public records or hires somebody to
17 examine them for it, right?

18 A. Yeah, that's right.

19 Q. Okay. That's what you mean by the
20 intermediary, right?

21 A. Correct.

22 Q. But if someone disputes a public record
23 item such as a judgment, you agree Equifax will
24 reinvestigate it through e-OSCAR, right?

1 MS. ROPER: Objection to form, assumes facts
2 not in evidence, beyond the scope.

3 BY THE WITNESS:

4 A. Right. Yeah, so if there's a public
5 record dispute, that Equifax would reinvestigate,
6 correct.

7 BY MR. SOLA:

8 Q. Yeah. But they can't send the e-OSCAR
9 notice to the court that has that record, can they?

10 MS. ROPER: Objection to form, assumes facts
11 not in evidence, beyond the scope of his expert
12 opinion.

13 BY THE WITNESS:

14 A. Yeah, I mean, the can is about ability
15 and then do. If there's a source of data that's not
16 linked to e-OSCAR, then, no, they cannot. But, you
17 know, could they try and enroll and enlist and
18 expand e-OSCAR, that that's a capability they could
19 too. But that's -- you know, again, you know,
20 there's a question of need, right, and so again with
21 the inquiry that we're discussing today, you know,
22 it's endogenous. Court record data is not
23 endogenous, right, so, I mean, you're talking about
24 furnished and unfurnished. But again I think the

1 more relevant feature is -- or more salient
2 certainly is that the data sources endogenous to
3 Equifax in the case of inquiries.

4 Q. Okay. But I guess my point is that the
5 courts whose records Equifax is reporting, they're
6 not part of e-OSCAR?

7 A. Okay. Yes.

8 Q. Right?

9 A. Yeah.

10 Q. But Equifax still has a system to
11 reinvestigate disputed court records?

12 MS. ROPER: Objection, asked and answered,
13 assumes facts not in evidence, beyond the scope of
14 his expert opinion.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. SOLA:

18 Q. Okay. Now you say that endogenous word.
19 But the inquiry resulted from information provided
20 by an inquirer, right?

21 A. No, that -- well, in part. But it's also
22 that a disclosure was made, and so it's unique to
23 that particular consumer credit bureau as opposed to
24 any of the inquirers. So, you know, a record of

1 access to Equifax is not going to be contained on a
2 credit file in Experian or TransUnion or any other
3 CRA.

4 Q. Okay.

5 A. So it's unique and endogenous and it's
6 from that communication to them and their
7 fulfillment of that request.

8 Q. I understand. But some inquirers don't
9 report to all three credit bureaus, right?

10 A. Yes, that's true.

11 Q. Okay. So some items are --

12 A. But that's furnished, that's again we're
13 comparing apples and oranges.

14 Q. Okay. But not every item that's on
15 Equifax's reports is on TransUnion and Experian,
16 right?

17 A. Again, the same response. That's true,
18 but that's exogenous, that's furnished, we're
19 talking now in my opinion about endogenous.

20 Q. Okay. But again the inquiry only
21 resulted because an inquirer provided identifying
22 information on a consumer, right?

23 A. I mean, technically you could -- if
24 you're -- if we could extend that logic and say only

1 it happened because an individual decided they
2 wanted to visit a borrower and get credit so, you
3 know, I mean, they're equally as culpable for that
4 inquiry as the subscriber, inquirer, you know. I
5 mean, so the reality is the best source in this case
6 where the record the data was generated was yes, but
7 for the consumer deciding they needed a loan and but
8 for the bank existing saying we loan to consumers
9 and but for the existence of a contract between the
10 lender and the CRA, you know, none of this would
11 matter. But the reality is it ends up, it's the end
12 point. It's -- you know, the data is created
13 because they contacted Equifax and Equifax fulfilled
14 it. So that last part, the fulfillment, isn't there
15 with the consumer until they -- you know, see, oh,
16 is this on my file or not, and they have the right
17 to contest it or the bank, you know, accepting their
18 application base.

19 Q. Okay. So the --

20 A. So they're --

21 Q. The inquiry is a product of two things, I
22 think we agree? One is the inquirer making the
23 request and providing the information and Equifax
24 selling them the credit report?

1 A. Yes.

2 Q. Okay. So it's not wholly Equifax data
3 that produces the inquiry, in fact, it starts with
4 the furnisher data, right?

5 A. Yes. If nobody inquired, there would be
6 no inquiries.

7 Q. And if the furnisher had not provided the
8 information with the can inquiry, there would be no
9 inquiry?

10 A. Well, that would -- that's the definition
11 of an inquiry. If the furnisher wasn't, you know,
12 commissioned by the data subject to make the
13 inquiry, there would be no inquiry; hence, no record
14 of inquiry.

15 Q. Now, is it your understanding that
16 Equifax, Experian and TransUnion have similar
17 procedures for handling disputed inquiries as a
18 result of them all using the e-OSCAR system?

19 MS. ROPER: Objection to form, misstates the
20 report, misstates his testimony.

21 BY THE WITNESS:

22 A. No. The handling of e-OSCAR or the --
23 sorry, the use of e-OSCAR and the handling of
24 inquiries and my knowledge of how they handle

1 inquiries -- sorry, I'm talking fast -- and their
2 similarities, they're separate issues. So, I mean,
3 I have familiarity with their practices and policies
4 for all of the reasons we discussed earlier, the
5 communications that we detailed earlier, the
6 research that I detailed earlier. And that's quite
7 separate from them using e-OSCAR for furnished
8 information.

9 BY MR. SOLA:

10 Q. Okay. Do they -- the big three bureaus,
11 do they have similar procedures for handling
12 disputed accounts?

13 A. Well, for handling disputed accounts,
14 those are pieces of information, that's e-OSCAR, so
15 yes.

16 Q. Okay. Do they have similar procedures
17 for handling disputed public record information?

18 MS. ROPER: Objection to form, beyond the
19 scope.

20 BY THE WITNESS:

21 A. Yeah, I mean, you know, generally
22 speaking, the practices of the big three, and I
23 would throw Innovis into this, have converged over
24 time. They're generally fairly similar, they're

1 nuance differences, but, you know, generally fairly
2 similar.

3 BY MR. SOLA:

4 Q. Yeah. In other words, they all do their
5 reinvestigations the same way?

6 A. Roughly, yeah.

7 Q. Roughly. And a part of that is because
8 they all use e-OSCAR, right?

9 A. For account information, yes.

10 Q. Now, your second sentence in paragraph
11 25, you're talking about the similar procedures, and
12 you say at the core of their policies is the shared
13 definition of an inquiry as a factual record, right,
14 you see that?

15 A. Yes.

16 Q. Okay. But as we saw, that's not what --
17 how Equifax defines a hard inquiry, is it?

18 MS. ROPER: Objection to form --

19 BY MR. SOLA:

20 Q. This is referring to the definitions in
21 the policy manual.

22 MS. ROPER: Objection to form, misstates the
23 testimony, misstates the document referred to.

24

1 BY THE WITNESS:

2 A. Yeah, I'm sure I could easily produce for
3 you documents from Equifax where they refer to
4 inquiries as factual records of access.

5 BY MR. SOLA:

6 Q. No, I understand. But their definition
7 is an inquiry that result from transaction initiated
8 by the consumer when applying for credit such as a
9 mortgage, credit card, auto loan or perjury finance
10 loan. That's how they define hard inquiry, right?

11 MS. ROPER: Objection to form, argumentative,
12 it misstates the document, misstates his prior
13 testimony.

14 BY THE WITNESS:

15 A. So I write reports for different
16 audiences, and I'll use the same term and provide
17 different definitions depending on the technical
18 aptitude of the audience. So I may use detailed --

19 BY MR. SOLA:

20 Q. Sir, that's not my question.

21 A. No, it -- in fact, if you'll --

22 Q. I'm asking you --

23 A. -- if you'll allow --

24 Q. -- if that was your --

1 A. -- me to finish --

2 Q. Well, it's just --

3 A. So you're --

4 Q. -- nonresponsive.

5 A. You're referring to a single document and
6 a single source, again entirely devoid of context,
7 particularly who is the intended audience, if this
8 is a communication to consumers, you're not going to
9 use factual record of access necessarily, you're not
10 going to use a lot of parlance and jargon. They
11 have departments for external communications that
12 goes through legal, and that is my point. I mean,
13 the intended audience would largely determine the
14 language that's used. So all three -- I can
15 confidently assure you that all three of the
16 nationwide CRAs and Innovis consider inquiries
17 factual records of access, and that's the organizing
18 principal for their dispute resolution process.

19 Q. All right. Your sentence says shared
20 definition of an inquiry as a factual record. Do
21 you see that?

22 A. Uh-huh.

23 Q. Okay. And don't they consider trade
24 lines factual records?

1 A. Not of access.

2 Q. No, but factual records?

3 A. Correct.

4 Q. And public --

5 A. But that's a significant difference.

6 Q. Isn't everything on a credit report
7 supposed to be a factual record?

8 A. You know, there is an obligation under
9 the FCRA to ensure maximum possible accuracy, and I
10 would assume that's a fairly blanket statement for
11 all of the elements on a credit report, whether it's
12 a data element or a piece of information, yes.

13 Q. Okay. Now, if a -- an identify thief
14 impersonates somebody and seeks credit, we've
15 already talking about that, that can result in an
16 inquiry that goes on a consumer's report, right?

17 A. Yes.

18 Q. All right. And we'll just call that a
19 fraudulent inquiry. Now, sometimes, and hopefully
20 most times, that identify thief doesn't get the
21 credit if the creditor's fraud detection procedures
22 work, right?

23 A. We would hope that, yes.

24 Q. Yeah, okay. So oftentimes the

1 application doesn't result in an account, right?

2 A. The application doesn't -- yeah, so there
3 would be an inquiry, a record of application with
4 the creditor and if they're rejected, the account
5 information would be preserved on the account, you
6 know, that database with -- or I'm sorry, the
7 application database with the information that an
8 inquiry was made. But it wouldn't result in an
9 account with the credit bureau, correct, if that's
10 what you mean.

11 Q. Yeah. There would be no account with the
12 creditor, right?

13 A. Correct. Or with a credit bureau.

14 Q. Another -- okay. You mean or the credit
15 bureau, assuming that the creditor --

16 A. Yeah, there's no --

17 Q. -- would report the -- let me finish
18 this, and I'll try to let you finish --

19 A. Sure.

20 Q. -- for her sake if not ours.

21 Okay. And you're -- so what we're saying
22 is if no account's open, then there's no account
23 that could appear on a credit report, right?

24 A. Correct.

1 Q. And in those instances, Equifax's
2 procedure for deleting inquiries won't remove the
3 inquiry, right?

4 MS. ROPER: Objection, assumes facts not in
5 evidence.

6 BY THE WITNESS:

7 A. Yeah, again, I think again -- not to
8 belabor the point but it depends on the nature of
9 the dispute. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. And you mentioned the fact of amendments.

6 Those were in large part spurred by the problem of

7 fraudulent or identify theft information appearing

8 on credit reports, correct?

9 A. I think that's a contributing factor,
10 that would be correct, yes.

11 Q. In fact, the whole new section of the --
12 was added to the FCRA dealing with identify theft
13 information, wasn't it?

14 A. Yeah, in part from some of the research
15 we had done leading up to that, yeah.

16 Q. And I know you're not a lawyer, but maybe
17 you're familiar with there's a section that if the
18 consumer sends in a police report and identify -- or
19 an identify theft report, to use the legal term, and
20 identifies information that results from identify
21 theft, then the credit reporting agency has to block
22 that information within four days, are you familiar
23 with that?

24 A. Okay. Yep, sure. No, I mean, not the

1 terms, but I mean in terms of the definitions, but
2 yes.

3 Q. But just that provision?

4 A. Yeah.

5 Q. Okay. So people could get fraudulent
6 information off their reports, that's the purpose of
7 that?

8 A. Correct.

9 Q. And so it's your understanding that if
10 someone sends a police report, Equifax has a duty to
11 block that information under a different section
12 than the section that deals with regular disputes?

13 MS. ROPER: Objection to form, calls for a
14 legal opinion.

15 BY THE WITNESS:

16 A. Yeah, I'm not sure I could answer that.

17 BY MR. SOLA:

18 Q. Okay.

19 A. You know, I've seen police reports
20 submitted to credit bureaus, and I can attest to
21 wild variance in the thoroughness of the reports.
22 Sometimes they're simply a sentence or two. They
23 don't provide detail. So it would be hard for me to
24 extrapolate from the receipt of a police report.

1 And I have to respect the difficulty in validating
2 the legitimacy of the police report given the
3 technology. But what they could and shouldn't
4 delete and what they would be obligated to under the
5 FCRA but, yeah, I'll stop there.

6 Q. Okay. Now, let's talk about where an
7 identify thief opens an account.

8 A. Okay.

9 Q. And then that account gets reported to
10 the credit bureau.

11 A. Okay.

12 Q. Okay. So let's just -- I always use
13 Chase.

14 A. So new account takeover or new account --

15 Q. New account.

16 A. -- fraud.

17 Q. Yeah.

18 A. And Chase is fine.

19 Q. Chase. And so then there's this Chase
20 account, okay. Now, that Chase account on a report,
21 would you consider that's a factual record that
22 there was an account opened?

23 A. In that person's name, yeah, I mean,
24 sure.

1 Q. Okay. But we all agree that because that
2 person didn't open the account, you know, it doesn't
3 belong to them and shouldn't be on their report,
4 right?

5 A. Yes.

6 Q. And isn't that an -- that's analogous
7 with the fraudulent inquiry, right, that if it
8 wasn't them seeking the credit that resulted in the
9 inquiry, it doesn't belong to them and it shouldn't
10 be on their report?

11 MS. ROPER: Objection to form, misstates his
12 test -- sorry, let me start over. Objection to
13 form, just leave it at that.

14 THE WITNESS: I'm getting better at pausing.
15 BY THE WITNESS:

16 A. Sorry, that if -- could you repeat the
17 question?

18 BY MR. SOLA:

19 Q. Okay. So we talked about the fraudulent
20 account.

21 A. Yeah, okay.

22 Q. That even though it did get opened,
23 there's no question of fact that there is that
24 account --

1 A. Right.

2 Q. -- I think we agreed since it's not
3 belonging to that consumer that it should come off
4 their file if disputed, right?

5 A. Yeah, so I'm sorry, and then you're
6 applying that to inquiries?

7 Q. Yeah. And isn't that analogous, that the
8 inquiry does not belong to that consumer, it's a
9 product of identity theft, and if they dispute it,
10 assuming it's verified as not belonging to them or
11 assuming it's determined it doesn't belong to
12 them --

13 A. Right.

14 Q. -- it should come off?

15 [REDACTED]
16 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
21 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

22 Q. But you'd agree at Equifax they don't
23 even look to determine if the inquiry that's
24 disputed is fraudulent is fraudulent?

1 MS. ROPER: Objection to form, misstates his
2 testimony, misstates the documents.

3 BY THE WITNESS:

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 BY MR. SOLA:

9 Q. No. But my question, though, and let's
10 take Amy Summers, she went online, she submitted a
11 dispute, she identified three inquiries as
12 fraudulent, but Equifax didn't even check to
13 determine if they were fraudulent, did it?

14 MS. ROPER: Objection, assumes facts not in
15 evidence misstates his testimony.

16 BY THE WITNESS:

17 A. Yeah, and again, as per my earlier
18 response, that I'm not here today to talk about
19 individual applications of Equifax's policy. I'm,
20 you know, here to talk about Equifax's policy and
21 its consistency with industry standards and the
22 adequacy or appropriateness given the nature of the
23 inquiry or the nature of the dispute rather.

24

1 BY MR. SOLA:

2 Q. Okay. Well, let's take it then in a
3 general policy. If a consumer disputes an inquiry
4 as fraudulent to Equifax, Equifax does not conduct
5 an investigation to determine if the inquiry is
6 fraudulent, does it?

7 MS. ROPER: Objection to form, assumes facts
8 not in evidence.

9 BY THE WITNESS:

10 A. You know, again, I can repeat myself.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
3 [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]

5 Q. Okay. But there's no investigation into
6 whether the disputed inquiry is fraudulent, is
7 there?

8 MS. ROPER: Objection, argumentative, asked
9 and answered --
10 BY THE WITNESS:

11 A. Yeah, I think that --

12 MS. ROPER: -- assumes facts not in evidence.
13 BY THE WITNESS:

14 A. I think they're acting on evidence
15 provided by the disputant. So if there's sufficient
16 evidence that meets their threshold, and that's
17 important again because for reasons we've elaborated
18 earlier. Equifax itself had a policy, I want to say
19 seven, eight years ago for about six months, where
20 anyone who called and disputed an inquiry, the
21 inquiry would be deleted. And this information got
22 out to credit repair organizations that have now
23 manifest themselves as law firms and there was a
24 spike in disputes of inquiries, because this was a

1 practice that was recognized as potentially being
2 able to increase someone's credit score. So it was
3 the knowing removal of accurate but potentially
4 derogatory information. So it's for that very
5 reason that there has to be again some threshold of
6 evidence provided by the data subject in order for
7 Equifax or any responsible credit bureau to delete
8 an inquiry that they're disputing as fraudulent.

9 BY MR. SOLA:

10 Q. Well, I mean, to me, that policy was
11 preposterous, wasn't it, sir, to just delete
12 information on a bare dispute? Don't you agree that
13 was just preposterous?

14 A. I agree that it's preposterous.
15 Unfortunately it's a practice. I mean, Equifax
16 curtailed that in, I think, six months, but it's a
17 practice that's out there with furnishers. A lot of
18 the modifications made in the FTC report and in our
19 report from consumer disputes were simply furnishers
20 that don't want to deal with liability and don't
21 want to deal with consumer relations costs or
22 pushback and they'll just delete files that are
23 challenged.

24 Q. Okay.

1 A. I mean, it's certainly a deficiency in
2 our system, absolutely.

3 Q. Okay. But won't you agree that when an
4 item's disputed as inaccurate, the best procedure to
5 take is to determine whether it's accurate or not?

6 MS. ROPER: Objection, argumentative.

7 BY MR. SOLA:

8 Q. In terms of let's say and the best
9 procedure in terms of making credit reports more
10 accurate is to conduct an investigation to determine
11 if the disputed item is accurate?

12 A. Yeah. Counselor, I think we could sit
13 here all day quibbling. My position is that the
14 data is endogenous and that the internal measures
15 that Equifax and the other CRAs are able to take is,
16 in fact, the best measure to determine whether or
17 not the inquiry is accurate as a factual record of
18 access. In other words, whether there was a
19 disclosure of that data subject, the disputant's
20 credit file to the inquirer, the credentialed third
21 party permissible purpose end user.

22 Q. Well, but that's not in dispute, right?

23 A. It seems to be, because I've assessed
24 that as being adequate as a response to a dispute

1 about the accuracy of the data. Now, in terms of
2 ownership, the term that you like to use, that's
3 something that's best sorted out between the
4 inquirer and the data subject.

5 Q. Well, if we -- if we -- it sounds like
6 you're saying Equifax checks to see if there
7 actually was an inquiry made, is that what you're
8 saying, where they -- and then if so, they write
9 back and said inquiries are a factual record of file
10 access?

11 A. If it appears on a credit file, it's a
12 record of access, it's happened, so it's just a
13 known fact.

14 Q. Okay. And so if that's all they're
15 looking to determine, then they would never delete
16 an inquiry, right?

17 MS. ROPER: Objection to form, argumentative,
18 misstates his testimony, misstates the report.

19 BY THE WITNESS:

20 A. Again we're sort of talking in circles.
21 There are circumstances which we discussed in which
22 they do, in fact, delete disputed inquiries.

23 BY MR. SOLA:

24 Q. Okay. So it's your opinion that if a

1 consumer disputes an inquiry, Equifax need not to
2 investigate to determine if the inquiry is accurate?

3 MS. ROPER: Objection to form, asked and
4 answered, argumentative, misstates his prior
5 testimony.

6 BY THE WITNESS:

7 A. And again it depends on the nature of the
8 dispute and evidence that's provided with the
9 dispute.

10 BY MR. SOLA:

11 Q. Okay. How about if they say it's
12 fraudulent?

13 A. And if they provide supporting evidence.

14 Q. How about if they do it online, then they
15 can't give any evidence, right?

16 A. I'm aware that at least one of the
17 bureaus has an ability to add comments and attach
18 files so, I mean, they -- or they could -- if they
19 can't, then they certainly can pick up a phone or
20 fax or send a letter for -- what is the cost of a
21 postage stamp right now? It's some trivial amount.
22 I don't think it's cost prohibitive for anyone. I
23 mean, there are other -- we fortunately live in a
24 multimedia world, so there are plenty of means of

1 communication, so sure.

2 Q. Okay. And so you're saying if the
3 consumer doesn't provide evidence to support their
4 claim it's fraudulent, then Equifax doesn't have to
5 investigate that?

6 MS. ROPER: Objection, misstates his
7 testimony, asked and answered, argumentative.

8 BY THE WITNESS:

9 A. I think I've established there are
10 legitimate reasons for providing a threshold for
11 evidence to support claims of fraud otherwise there
12 would be large scale gaming of the system consistent
13 with prior evidence.

14 BY MR. SOLA:

15 Q. I guess I don't understand this gaming of
16 the system. Right now someone could make a false
17 dispute, right?

18 A. They do. Can and do.

19 Q. All right. And let's say they make a
20 false dispute of an account, and I think one thing
21 that comes through in your report is accounts are
22 much more harmful than inquiries, is that -- would
23 you agree, negative accounts?

24 A. What I've suggested is that as a variable

1 in a credit score, a single inquiry is a fairly --
2 that its impact ranges from zero to some trivial
3 amount, a few points, and that may or may not be
4 material. But in most instances, it's highly likely
5 to be immaterial because of its negligible impact,
6 yes.

7 Q. Okay. So right now if a consumer
8 disputes an account, and they don't provide any
9 evidence beyond their statement that it's
10 inaccurate, are you saying Equifax doesn't have to
11 do anything about it because it could be a gaming of
12 the system?

13 MS. ROPER: Objection to form, misstates his
14 testimony, beyond the scope, asked and answered.

15 BY THE WITNESS:

16 A. And, you know, I would harden back to my
17 earlier distinction about furnished information and
18 disputing a trade line information which there are
19 obligations for the CRAs or the credit bureaus to
20 investigate or reinvestigate and they would, in
21 fact, and they have a system in place as you're well
22 aware to verify the veracity of the claims of
23 accuracy or inaccuracy fraud or otherwise for the
24 endogenous data which is not furnished, the fact

24 I don't feel like -- you know, if it's

1 not broke -- I guess I would say if it's not broke,
2 don't fix it. I just -- you know, I mean, we're
3 talking about a relatively uncontested piece of
4 information that has a relatively negligible to no
5 impact on a consumer's score and, hence, material
6 impact, I just -- you know, I mean, if they were
7 like collections or other pieces of information,
8 maybe there would be cause to look at improving the
9 system, but that's simply not the case. I mean,
10 there's no evidence to support or justify a need for
11 a systemic overhaul.

12 Q. Why do you say relatively uncontested?
13 It sounds like you're not aware of the number of
14 disputes of inquiries.

15 MS. ROPER: Objection to form, argumentative.
16 BY THE WITNESS:

17 A. So why I'm saying relative is because in
18 the largest empirical study of consumers own
19 perceptions about the accuracy of contents of their
20 credit report, both from the Federal Trade
21 Commission and ours, hard inquiry disputes or any
22 inquiry disputes were relative to all other
23 categories of disputes quite small; hence, the use
24 of relative.

1 BY MR. SOLA:

2 Q. Okay. But you're not disputing that
3 there are millions of disputed inquiries that have
4 come into Equifax, let's say, in the last two years?

5 A. Okay. So now you're stripping them and
6 untethering them and saying here's an absolute
7 number that sounds big, relative to what? Relative
8 to what other types of disputes? How big is it
9 compared to collections disputes, for example?

10 Q. No, I understand, you're talking about
11 relative terms.

12 A. That's why I use the term relative.

13 Q. Okay. So you don't know the real numbers
14 as far as how many disputes of inquiries are made,
15 do you?

16 A. I've read those to -- they're actually
17 part of the documents I reviewed, and there's some
18 millions over some year.

19 Q. That's right.

20 A. You know, it's not --

21 Q. So it's not --

22 A. -- trivial.

23 Q. -- uncontested information?

24 A. Correct. That's right. But just because

1 something's contested and, you know, research bears
2 this out, doesn't mean it's inaccurate.

3 Q. No, in fact --

4 A. There's a -- there's a lower -- much
5 lower number of verified inaccuracies again back to
6 the gaming the system. You go to the Lexington Law
7 Firm home page, and they'll talk about how many tens
8 of millions of pieces of information they've had
9 removed, most of which is accurate.

10 Q. They've had removed by contacting the
11 credit bureaus?

12 A. By gaming the system, yeah.

13 Q. Okay. So they dispute with the credit
14 bureaus, and the credit bureaus improperly remove
15 the information, is that what you're saying?

16 A. I think they're under -- that it's a
17 deficiency in the legal requirements that they do it
18 and furnishers that just don't want to deal with
19 disputants will instruct them to delete them and
20 there are all sorts of reasons, absolutely.

21 Q. What do you mean deficiency in the legal
22 requirements?

23 A. What I mean is that you can choose to
24 modify or not modify if it's inaccurate and you know

1 it's accurate. I mean, right now lenders because of
2 a decision in New York are knowingly deleting
3 millions of accurate derogatory trade lines because
4 they don't want to deal with liability. They don't
5 want to end up with a guy like you in a room with a
6 class action lawsuit for some failure on a couple
7 of, you know, disputes.

8 Q. All right. But that's illegal what
9 they're doing, isn't it, sir?

10 A. Its not illegal, they can do it, it's
11 legal. That's why it's a deficiency in the legal
12 system.

13 Q. You're not aware of the requirement in
14 the Fair Credit Reporting Act that furnishers have
15 to make an effort to report accurate information?

16 MS. ROPER: Objection to form, it misstates
17 his testimony and --

18 BY MR. SOLA:

19 Q. Okay. Well, anyway, I mean, we had the
20 Equifax example where you said for a short period of
21 time they were just deleting all inquiries?

22 A. Uh-huh.

23 Q. Okay. And you agreed that that was a
24 preposterous procedure?

1 A. I think it was probably not the best
2 choice.

3 Q. In other words --

4 A. I think the intention was to be consumer
5 friendly. But I think that the -- the impact was
6 not as much.

7 Q. Okay. And when a dispute comes in, I
8 think you'd agree, you shouldn't just take a blanket
9 approach and delete it, right, delete the disputed
10 information?

11 A. That would be -- yes, I would agree with
12 that.

13 Q. Okay. And the furnisher shouldn't do
14 that either?

15 A. I don't think they should.

16 Q. Okay.

17 A. Correct.

18 Q. Because we want accuracy in credit
19 reports, right?

20 A. We do.

21 Q. We don't want inaccurate information
22 reported, right?

23 A. Right.

24 Q. And we don't want inaccurate -- I mean,

1 we don't want accurate information deleted?

2 A. Correct.

3 Q. Okay. And so when a dispute comes in,
4 you're saying that the CRAs shouldn't just take the
5 consumer's word it's inaccurate?

6 A. You know, if the dispute -- again you're
7 talking about just an allegation or assertion --

8 Q. Yeah.

9 A. -- that it's inaccurate, no, they
10 shouldn't.

11 Q. No. And would you agree that they should
12 investigate to determine whether it's accurate?

13 A. I agree, but we also have discussed that,
14 you know, we disagree on what constitutes that
15 investigation. I believe that, you know, with an
16 endogenous piece of -- or data point such as a hard
17 inquiry, the fact that it's on that data subject's
18 credit report reflects the fact that it was
19 accessed. So the dispute over whether it's mine or
20 not is different whether it was accessed or not.

21 Q. All right. But you don't see many
22 disputes of inquiries where there's disputing other
23 than whether it's mine or not, do you?

24 MS. ROPER: Objection to form.

1 BY THE WITNESS:

2 A. Again they -- there are types of disputes
3 of whether it's mine or not, whether it's mixed file
4 or fraud and if they're coming in, but generally
5 speaking, that's right, yeah.

6 BY MR. SOLA:

7 Q. Okay. You have paragraph 26. All right.
8 And you mention, you say that you had previously
9 talked about how they -- the big three bureaus had
10 similar procedures for dealing with disputes of
11 inquiries, but here you're pointing out some
12 differences?

13 A. Uh-huh.

14 Q. And do you know why they would be
15 different?

16 A. No, I mean I assume that they make
17 decisions as an enterprise involve legal compliance
18 perspectives, business operation perspectives and
19 some unit head or operation heads says this is, you
20 know, among our choice set, this is what we'll do.
21 I mean, I don't know specifically why the individual
22 variance across the three exist, but it's pretty
23 minor.

24 Q. Do you think when a consumer disputes an

1 inquiry to Equifax online, that someone at Equifax
2 should look at that dispute?

3 MS. ROPER: Objection to form.

4 BY MR. SOLA:

5 Q. In other words, that someone at Equifax
6 should consider the dispute, I'm not saying what
7 they should do as part of their consideration but
8 that somebody should consider it as opposed to just
9 a computer responding?

10 MS. ROPER: Objection to form, vague, calls
11 for a legal conclusion.

12 BY THE WITNESS:

13 A. To your earlier point about the volume of
14 inquiry disputes and, you know, part of the benefit
15 of online is a scale technology. So, I mean,
16 obviously there's an ability to recognize the
17 dispute, recognize the nature of the dispute and
18 respond electronically akin to like an e-OSCAR
19 system. I don't know that introducing a required
20 manual interface would necessarily benefit the
21 consumers at all. It would certainly drive up
22 costs. Would certainly result in a lot of people
23 being employed by Equifax. But, you know, I don't
24 see any particular benefit. Again, I don't see this

1 as a problem screaming for a solution. There's just
2 no evidence that suggests that relative to other
3 pieces of information or data elements on a credit
4 report, this data is more inaccurate or causing
5 consumer harm. I mean, quite the inquiry.

6 BY MR. SOLA:

7 Q. Well, it seems like, you know, you say
8 not a problem screaming for solution. You seem to
9 not consider whether the consumers have a legal
10 right to dispute information?

11 A. Here --

12 THE WITNESS: Sorry.

13 BY MR. SOLA:

14 Q. I'm not saying you -- and I say that in
15 that you've already said you're not a lawyer, but
16 you agree that when you're -- when you're looking at
17 a problem and solution, you're not considering
18 whether there's a legal right to have disputed
19 information investigated, right?

20 MS. ROPER: Objection, argumentative, calls
21 for legal conclusion, asked and answered.

22 BY THE WITNESS:

23 A. I'm not considering because I'm not a
24 lawyer. I'm not here as an expert on obligations

1 under the FCRA regarding this data element.

2 BY MR. SOLA:

3 Q. And then page 14, this little chart you
4 drew up, okay. This is just a -- you're --
5 essentially a summary of the procedures that Equifax
6 provided to you, is that right?

7 A. I think it's -- I think it's even more
8 basic than that. I think it's a cut and paste from
9 actual Equifax documents. I think it's verbatim,
10 just organized and presented more consumer friendly,
11 I hope, and maybe not.

12 Q. Well, I notice -- let's say look at the
13 far left column.

14 A. Uh-huh.

15 Q. The second box down, the response. If
16 it's telephone, you say that the consumer will
17 receive a written letter that inquiries are a
18 factual record of file access. You see that? Okay.
19 And eventually they'll be given the name of the
20 furnisher to contact about the dispute, right?

21 A. That's on the letter usually, yeah.

22 Q. Okay. Paragraph 28. All right. And you

23 [REDACTED]

24 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] But

6 you're not saying this was applied to Mr. Steed's
7 dispute, right?

8 MS. ROPER: Objection, argumentative, asked
9 and answered, beyond the scope.

10 BY THE WITNESS:

11 A. Yeah, I'm not representing myself as an
12 expert on the application of their policies, no.

13 BY MR. SOLA:

14 Q. Okay. Now, does a consumer have to
15 provide a police report if they make -- for Equifax,
16 if they make a dispute that an account is fraudulent
17 for it to be reinvestigated by Equifax?

18 MS. ROPER: Objection to form, beyond the
19 scope, assumes facts not in evidence.

20 BY THE WITNESS:

21 A. Yeah, we touched on this earlier. And
22 for me, the significant differentiator is that --
23 well, anyway, do they have to? No, they don't.
24 Sorry. Let me just answer your question. That's

1 improvement.

2 BY MR. SOLA:

3 Q. And why not?

4 A. Well, my understanding is that for trade
5 line or furnished information, there are furnisher
6 obligations under the FCRA, and there are CRA
7 obligations under the FCRA and for a dispute of a
8 furnished piece of information, the CRA is obligated
9 to communicate the nature of the dispute and seek
10 clarification on the accuracy or inaccuracy of the
11 dispute and make appropriate modifications when
12 necessary.

13 Q. All right. And that procedure, you agree
14 that applies to public record information that isn't
15 furnished; in other words, that isn't from a
16 furnisher to Equifax?

17 MS. ROPER: Objection, asked and answered,
18 beyond the scope, assumes facts not in evidence.

19 BY THE WITNESS:

20 A. I mean, let me provide a slightly
21 different answer for the sake of variety.
22 Technically even though from an intermediary would
23 be furnished, but it's not directly from, you know,
24 different courthouses, correct, but it's still

1 exogenous data, it's not endogenous data. So I
2 think again that's a critical differentiator.

3 BY MR. SOLA:

4 Q. And your opinion is that company that's
5 providing that public record information a furnisher
6 as you understand that term?

7 MS. ROPER: Objection, beyond the scope,
8 calls for a legal opinion.

9 BY THE WITNESS:

10 A. You know, they're furnishing data, I
11 don't know -- I don't -- I can't answer what their
12 liabilities are under the FCRA for, you know,
13 inaccurate data from a courthouse that they
14 aggregate and resell. I don't know. I'll leave
15 that to lawyers and judges to sort out.

16 BY MR. SOLA:

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 BY THE WITNESS:

4 A. You know, again my understanding is that
5 if the disputant provides a police report or other
6 substantiating evidence, then the inquiry even
7 without a corresponding account would be removed.

8 BY MR. SOLA:

9 Q. Okay. But other than a police report,
10 Equifax's system won't result in deletion of an
11 inquiry if there is no corresponding account that's
12 determined to be fraudulent?

13 MS. ROPER: Objection, asked and answered.

14 BY THE WITNESS:

15 A. And again, as per my earlier response, my
16 understanding is that Equifax will accept
17 communications directly or indirectly from the
18 inquirer as to the inaccuracy of the inquiry and
19 would if it's deemed to be inaccurate by the
20 inquirer delete it.

21 BY MR. SOLA:

22 Q. Okay. But I'm talking -- well, anyway, I
23 won't belabor it.

24 Okay. In the middle of paragraph 16 --

1 or page 16, the top paragraph, you talk about part
2 of fraud and ID theft is account takeover.

3 A. Correct.

4 Q. Okay. And by that you mean where someone
5 has an account, but then the thief starts making
6 charges on the account, right?

7 A. Basically, yes, that's right.

8 Q. Okay. So the existence of the account
9 isn't in dispute, it's just those charges, right?

10 A. Correct.

11 Q. Okay. And so the inquiry leading to the
12 opening of the account, that wouldn't be fraudulent,
13 right?

14 A. That wouldn't. But if you're doing an
15 authorized user -- it's a good question. I mean,
16 there must be an inquiry for an authorized user, and
17 that would end up -- that would -- yeah, that's --
18 I'd have to get back to you on that. I don't know
19 how the authorized user inquiry, whether or not it
20 would end up on the original -- you know, the
21 original user's report. I mean, it would end up on
22 the authorized user's report, but I'm not sure if
23 that would also -- that's a good question. That's
24 kind of a -- I hadn't thought of that.

1 Q. Okay. Well --

2 A. Anyway, I'm not --

3 Q. I don't think --

4 A. -- even sure that's --

5 Q. -- there is any --

6 A. -- what you're asking me.

7 Q. Okay. The person opening the account
8 gets the inquiry, not the authorized user?

9 A. No. But if like subsequently like if I
10 say, okay, now my wife -- I want my wife to be on my
11 account, I would think they would -- well, no, they
12 wouldn't really want to pull -- they wouldn't --
13 yeah, I just don't know how that works.

14 Q. There won't be an inquiry, but it might
15 go on her credit report.

16 A. Yeah, right.

17 Q. Okay. I just was -- because it seems to
18 me that's irrelevant, the account takeover, to this
19 issue, because there's no fraudulent inquiry.

20 A. So it's irrelevant because there's no
21 fraudulent inquiry account takeover, yeah, okay.

22 Q. All right. But why'd you put it in here
23 then?

24 A. I think I was trying to differentiate

1 between existing account fraud and new account
2 fraud.

3 Q. Okay. Then you -- near the end of that
4 paragraph, you say for cases of alleged fraud but
5 with no accompanying documentation or disputed
6 account, consumers are directed to contact the
7 creditor would have more relevant information and be
8 in a better position to resolve the issue and
9 potentially be alerted of fraud, right?

10 A. Correct.

11 Q. Okay. So you believe in cases of fraud
12 that the creditor might have more relevant
13 information than Equifax, right?

14 MS. ROPER: Objection to form, misstates the
15 document. Go ahead.

16 BY THE WITNESS:

17 A. Yeah. So --

18 BY MR. SOLA:

19 Q. You're talking about fraudulent inquiries
20 here.

21 A. I understand. What I'm referring to in
22 the sentence that you just read was that, you know,
23 a dispute without document evidence that the inquiry
24 is not mine, first, will establish that an inquiry

1 is made, so they've alerted the consumer that gee
2 there's an inquiry on your report that may be
3 fraudulent.

4 But Equifax doesn't have the same
5 obligations as the lender in terms of know your
6 customer and all the same information, so, yes, that
7 if that's the case, if there's no supporting
8 evidence, Equifax wouldn't delete the data subject
9 would be instructed to address the inquirer and the
10 inquirer could then sort that out with them.

11 Q. Okay. It just seems to me that's
12 inconsistent with your statement that this is
13 endogenous information that Equifax would know about
14 but the furnisher wouldn't?

15 MS. ROPER: Objection, argumentative,
16 misstates his testimony.

17 BY THE WITNESS:

18 A. Yeah, I don't see how you draw that
19 conclusion --

20 BY MR. SOLA:

21 Q. Because you --

22 A. Well, if you'll let me finish.

23 Q. Yeah, okay.

24 A. The reality is the record of access is

1 endogenous whether or not it was authorized or
2 unauthorized without supporting evidence, the
3 consumer would have to resolve that with the
4 inquirer.

5 Q. Or Equifax could contact the inquirer,
6 right?

7 A. Again, you know, we've had this
8 discussion to my mind that's a less efficient
9 solution and I think that's also embodied in the
10 reform of the FCRA from the FACT Act, where
11 disintermediating the CRA and enabling the consumer
12 to directly contact the furnisher because it just
13 short-circuits the whole back and forth and
14 ping-ponging, they have the information, they have
15 comprehensive information, they can talk to them,
16 they can get them the documents they need, they can
17 fulfill all that directly. I just don't really see,
18 you know, putting in an intermediary as necessarily
19 an optimal outcome --

20 Q. Okay. You talked --

21 A. -- I mean --

22 Q. -- about the fact that disintermediating
23 the CRA, but I'm not aware of anything in the FACT
24 Act that reduced any obligations of the FCRA. Are

1 you?

2 A. It enabled --

3 MS. ROPER: Objection, argumentative.

4 BY THE WITNESS:

5 A. It enabled -- what I'm referring to is it
6 enables the consumers to directly contact furnishers
7 where they couldn't before.

8 BY MR. SOLA:

9 Q. That's right. But it did not
10 disintermediate the CRAs from any obligations?

11 A. That has the effect of disintermediating
12 CRAs because now consumers rather than contacting
13 the CRAs for the disputes are directly contacting
14 the furnishers.

15 Q. Well, they can?

16 A. That's the --

17 Q. -- right?

18 A. But that's disintermediation.

19 Q. Okay. But you're probably not aware --
20 okay. The furnishers don't have to do anything if
21 they get contacted by the CRA, do they?

22 MS. ROPER: Objection to form, argumentative.

23 BY MR. SOLA:

24 Q. I mean, if they're -- I take it back.

1 If the consumer contacts the furnisher
2 directly, and the furnisher could say that's Equifax
3 reporting that inquiry, I don't know why you're
4 coming to us, right?

5 A. They could.

6 MS. ROPER: Objection --

7 BY MR. SOLA:

8 Q. They could?

9 MS. ROPER: -- argumentative.

10 BY MR. SOLA:

11 Q. In fact, that's true --

12 A. Sorry.

13 Q. -- right?

14 A. I talked over a little.

15 Q. I guess that's what I don't under -- I
16 mean, it's Equifax reporting the inquiry, not the
17 furnisher?

18 MS. ROPER: Objection to form, argumentative.

19 BY THE WITNESS:

20 A. So again we're conflating two different
21 things. Equifax has a record of factual access. So
22 when they're contacted, it's endogenous data,
23 they're the best situated to ascertain whether or
24 not they made a disclosure of your credit file to

1 that inquirer. They're not optimally situated to
2 determine whether or not that was unauthorized.
3 That's something that you would have to take up with
4 the inquirer.

5 BY MR. SOLA:

6 Q. Okay.

7 A. And then if the inquirer then acts on
8 that like they did for Ms. Summers, then that
9 information can be passed along to the CRA, and then
10 they may have a policy whereby they would delete the
11 inquiry in dispute given the relevant information.

12 BY MR. SOLA:

13 Q. Okay. So you would add as a -- for the
14 consumer, instead of just disputing to Equifax, one
15 dispute, you would say they have to contact the
16 furnisher and then the furnisher has to contact
17 Equifax, and that's two communications, right?

18 MS. ROPER: Objection to form, argumentative,
19 misstates his testimony.

20 BY THE WITNESS:

21 A. When you say dispute, are you referring
22 to account information, or are you referring to
23 inquiries?

24

1 BY MR. SOLA:

2 Q. Inquiries.

3 A. Okay. So they may dispute first with
4 Equifax and they may then depending on the outcome
5 or depending on what information they provide and
6 depending on the nature of the dispute, they may be
7 instructed to dispute with the inquirer and that's
8 because the data as a factual record of access about
9 an inquiry, it's not about ownership or unauthorized
10 access, which is something that if it's not the
11 outcome the consumer wants, they need to, yes, take
12 an additional step.

13 Q. And then the creditor must take an
14 additional step to notify Equifax, right?

15 A. Or they could provide documentation to
16 the consumer and the consumer could send their -- a
17 whole variety of things. But, you know, you can --

18 Q. So then --

19 A. -- you have --

20 Q. -- it has the consumer --

21 A. There would be --

22 Q. -- go back again?

23 A. -- lots of back and forth.

24 Q. Okay.

1 A. -- between all different parties, right.
2 I mean, that they could report back to Equifax and
3 Equifax could say it's not modified and the consumer
4 could be unhappy and report back or contest, I mean,
5 disputes are oftentimes very complicated, you know,
6 again I think it's best if you get the two relevant
7 parties talking face to face rather than having an
8 intermediary.

9 Q. Okay. The two relevant parties would be
10 Equifax who's reporting it and the inquirer who made
11 the inquiry, right?

12 A. Not in the hypothetical you gave where
13 there wasn't a deletion of a contested or an alleged
14 dispute, because it was unsubstantiated with either
15 a police report or an affidavit or evidence from the
16 inquirer they would need to -- they would need to
17 meet that threshold, yes.

18 Q. Okay. Now, you agree that Equifax is the
19 only party that can delete an inquiry on the reports
20 it sells, right?

21 A. Yes.

22 Q. Okay. And so it's logical for the
23 consumer to dispute the inquiry they think is wrong
24 to Equifax?

1 MS. ROPER: Objection to form, argumentative.

2 BY THE WITNESS:

3 A. Yeah, sure.

4 BY MR. SOLA:

5 Q. Okay. And you agree that Equifax is
6 responsible for the accuracy of the inquiry
7 information on reports it sells?

8 MS. ROPER: Objection to the extent it calls
9 for a legal conclusion.

10 BY THE WITNESS:

11 A. Yeah, I think Equifax have compelling
12 market incentives alone to ensure that any
13 information on a consumer credit report is accurate.

14 BY MR. SOLA:

15 Q. Now, your opinion of the procedures for
16 Equifax, you believe those are the best procedures
17 for Equifax, right, as opposed to for the consumer?

18 MS. ROPER: Objection to form, argumentative.

19 BY THE WITNESS:

20 A. I don't think the two are mutually
21 exclusive.

22 BY MR. SOLA:

23 Q. Well, but you believe those are the best
24 procedures for Equifax?

1 MS. ROPER: Objection, asked and answered,
2 argumentative.

3 BY THE WITNESS:

4 A. Yeah, I opined on whether they were
5 appropriate given the type of data being disputed
6 and the industry practices and standards. And I
7 deemed them to be appropriate. I wasn't asked
8 whether they were best for Equifax. I wouldn't
9 actually -- I'd have to get a little more specific
10 context in terms of what best means.

11 BY MR. SOLA:

12 Q. Now, you mentioned sometimes that -- oh,
13 no, I'll strike that.

14 Now, you indicate that the inquiries of
15 record that the credit report was sold to company,
16 correct?

17 A. Sure.

18 Q. Yeah. Okay. And in the cases of fraud,
19 that sale itself shouldn't have happened, right?

20 MS. ROPER: Objection --

21 BY THE WITNESS:

22 A. Yeah, I'm, you know --

23 MS. ROPER: --

24

1 BY THE WITNESS:

2 A. -- the -- that's a normative question. I
3 mean, that the credit bureau is acting on or relying
4 on information represented by the subscriber or the
5 inquirer that they have fulfilled their obligations
6 in terms of verifying the identity of the data
7 subject and, you know, these are reasons why they
8 have ongoing audits for compliance and so forth.
9 But, yes, I mean, I wouldn't say it shouldn't
10 happen. There's some threshold for fraud and
11 inaccuracy in any industry. I mean, it's
12 inevitable. You can't have a standard of never
13 making an erroneous disclosure. That's just
14 completely unreasonable.

15 BY MR. SOLA:

16 Q. Okay. No, but it shouldn't have
17 happened? I'm not questioning whether you think
18 there's a way to stop it. But it's just sort of
19 like murder, right, it shouldn't happen, but it's
20 probably unlikely we could ever stop it?

21 A. Yeah, I mean --

22 MS. ROPER: Objection, asked and answered,
23 argumentative.

24

1 BY MR. SOLA:

2 Q. Bad analogy.

3 A. Nothing wrong should ever happen, sure,
4 yes.

5 Q. Okay. But I guess where I'm going is the
6 whole problem started with the fraud inquiry started
7 with Equifax giving out the report, right, if they
8 didn't give out the report, there'd be no fraud
9 inquiry, would there?

10 MS. ROPER: Objection to form, assumes facts
11 not in evidence, argumentative.

12 BY THE WITNESS:

13 A. Yeah, I would have to disagree with that
14 again. I think the inquirer was a reliable party
15 and that's a relevant relationship point that
16 they're an entity that makes an effort to prevent
17 fraud to the best of their ability. I mean, none of
18 the lenders have an interest in facilitating new
19 account fraud or identify theft or fraud. And, in
20 fact, they make great investments in preventing it.
21 But again the threshold can't be zero. I mean, it
22 would be great if that didn't happen, but that's
23 just not practical or reasonable.

24

1 BY MR. SOLA:

2 Q. Okay. But what about Equifax's
3 procedures for preventing fraud? Don't they need to
4 have reasonable procedures to make sure that their
5 reports are not enabling identify theft?

6 MS. ROPER: Objection to form, calls for a
7 legal conclusion.

8 BY THE WITNESS:

9 A. Yeah, I mean, I think that's a separate
10 issue. But I would portend that they're
11 credentialing of subscribers is just that. I mean,
12 that's how they do reduce fraud as they go to end
13 users and verify that they're an actual ongoing
14 enterprise and they have a legitimate interest, and
15 they don't just sell their reports to every Tom,
16 Dick and Harry who faxes a request.

17 BY MR. SOLA:

18 Q. Okay. You say in line four on page 17, a
19 consumer could be claiming fraud or not mine because
20 they don't recognize or remember the name of a party
21 initiating an inquiry or truly because of fraud,
22 right?

23 A. I do say that.

24 Q. Okay. And you're saying the consumer can

1 be mistaken about whether or not an inquiry belongs
2 to them?

3 A. Correct.

4 Q. And that's true of an account as well,
5 right?

6 A. Absolutely.

7 Q. Okay. It's not a reason not to
8 investigate when a consumer disputes an account, is
9 it --

10 MS. ROPER: Objection --

11 BY MR. SOLA:

12 Q. -- that they --

13 MS. ROPER: -- to form.

14 BY MR. SOLA:

15 Q. -- that they might be wrong?

16 MS. ROPER: Sorry, Robert.

17 Objection, beyond the scope, calls for a
18 legal conclusion.

19 BY THE WITNESS:

20 A. Yeah, again, the -- when a consumer
21 disputes whether or not they recognize it, the CRA
22 has no way of knowing that. But this is why they
23 have evidentiary standards and they have the
24 procedures in place they do. That you may not

1 rec -- you know, here's the name of the inquirer,
2 contact them, and they might contact HSBC and say,
3 gee, you underwrite my Saks Fifth Avenue card, and I
4 didn't know that and I've learned something and
5 thank you very much. That's a very possible
6 outcome. Happens all the time.

7 BY MR. SOLA:

8 Q. Now, you mention the -- going to
9 paragraph 33, examples of such entities include
10 energy utility companies, media, certain types of
11 insurance companies? The insurance inquiries, those
12 are soft -- those are deemed soft inquiries, aren't
13 they?

14 A. They are.

15 Q. Okay.

16 A. Same with landlords and employers.

17 Q. That's right.

18 A. Right.

19 Q. Okay. You mention this CFPB, which is
20 the Consumer Financial Protection Bureau, you see
21 that in paragraph 44?

22 A. Yes.

23 Q. All right. And you say they have
24 oversight and rulemaking -- or they're the oversight

1 and rulemaking agency with jurisdiction over the
2 credit reporting industry, correct?

3 A. Correct.

4 Q. And they have authority over compliance
5 with the Fair Credit Reporting Act by the credit
6 reporting agencies, right?

7 A. Yes.

8 Q. Okay. You agree that users of -- well,
9 in paragraph 35, you're talking a little bit --
10 you're trying to make a distinction, I think,
11 between users and data furnishers?

12 A. Inquirers and data furnishers are, yeah,
13 users and inquirers, yes.

14 Q. Yeah. Well, inquirers are users, right?

15 A. Yeah, they are.

16 Q. Okay. And by users, we mean persons who
17 obtain credit reports?

18 A. Yes.

19 Q. And they have obligations under the FCRA,
20 as well, users, don't they?

21 MS. ROPER: Objection, calls for legal
22 opinion.

23 BY MR. SOLA:

24 Q. Okay. You're not aware of that, I guess?

1 A. Pardon?

2 Q. Are you aware of that?

3 A. There are obligations for end users to
4 maintain credit files for, I think, five years, two
5 years for audit generally in contracts, yes, there
6 are obligations under the FCRA.

7 Q. Yeah. And there's limitations on the
8 purposes for which they can use the --

9 A. Correct.

10 Q. -- reports or obtain --

11 A. There's restricted --

12 Q. -- the reports?

13 A. -- uses, of course.

14 Q. Right.

15 A. Yeah.

16 Q. Okay. So these inquirers, they're
17 already subject to the Fair Credit Reporting Act,
18 aren't they?

19 A. For?

20 Q. As users?

21 A. As users, yes.

22 Q. Okay. Because you say in addition fear
23 over data furnisher obligations --

24 A. Which are different from user

1 obligations, yes.

2 Q. Okay. But again anybody -- I mean, being
3 subject to the Fair Credit Reporting Act for these
4 people in the credit industry, that's a benefit to
5 everybody, right, because the Fair Credit Reporting
6 Act makes sure that credit reports are fair and
7 accurate?

8 MS. ROPER: Objection, argumentative, calls
9 for a legal opinion.

10 BY MR. SOLA:

11 Q. Right?

12 A. Is being subjected to the Fair Credit
13 Reporting Act a benefit for -- yeah, I would say
14 just on the whole, it's beneficial to have rules for
15 the collection use for use storage, access and of
16 financial -- sensitive financial data, absolutely.

17 Q. Okay. So let me just -- okay. You
18 mention -- go to the top of page 19, you -- in the
19 first line, you say the Congress empowered consumers
20 with the right to directly dispute credit report
21 data with data furnishers and then -- well, you
22 say -- well, I guess where I'm going, we talked
23 about this --

24 A. Earlier.

1 Q. -- direct dispute provision?

2 A. Right.

3 Q. Okay. But it seemed like the -- on page
4 18, you were saying how these users are not data
5 furnishers?

6 A. Yeah, there is --

7 Q. -- right?

8 A. Some subset of inquirers slash users that
9 aren't data fors, correct.

10 Q. Okay. And so if they're not data
11 furnishers, then there would be no right for the
12 consumer to dispute directly with them, right?

13 MS. ROPER: Objection to form, argumentative,
14 calls for a legal opinion.

15 BY THE WITNESS:

16 A. Right. So look a consumer can call
17 whoever they want to call, right, I mean, they have
18 that right.

19 BY MR. SOLA:

20 Q. Okay. But --

21 A. But before, the change as we discussed
22 earlier was on furnishers and the right for
23 consumers to contact furnishers, which didn't exist
24 prior to the amendment in the FACT Act that now

1 exists.

2 Q. Okay. But this right doesn't apply to
3 these users who aren't --

4 A. To nonfurnishers?

5 Q. -- furnishers?

6 A. Yeah, it's limited to furnishers.

7 Q. Okay. And so that your reference to the
8 consumers ability to contact these users doesn't
9 apply, because there is no right?

10 MS. ROPER: Objection to form, calls for a
11 legal opinion, asked and answered, argumentative.

12 BY THE WITNESS:

13 A. Yeah, you know, because something is not
14 scoped out by the FCRA doesn't mean it's not a
15 possibility. And indeed as the named plaintiff
16 Summers was successfully able to do, she reached out
17 to the inquirers and made her case and was satisfied
18 in terms of being provided with documents that, you
19 know, substantiated her claims, so, you know, it
20 doesn't necessarily -- everything doesn't need to be
21 defined by the law to be an option. So, yeah, she
22 can -- it's a possibility and --

23 BY MR. SOLA:

24 Q. All right. And despite Ms. Summers'

1 efforts to contact the inquirers directly and you
2 said you indicated some success in that regard in
3 recognizing it was identify theft, Equifax still
4 wouldn't remove the inquiries from her credit
5 report?

6 MS. ROPER: Objection to form, beyond the
7 scope --

8 BY MR. SOLA:

9 Q. Right.

10 MS. ROPER: Objection, beyond the scope,
11 asked and answered, argumentative.

12 BY THE WITNESS:

13 A. Again I'm not here to testify on the
14 application of Equifax's policies --

15 BY MR. SOLA:

16 Q. Okay.

17 A. -- to a specific individual.

18 Q. Now we talked about a consumer disputing
19 Equifax and talked about Equifax advising a consumer
20 to contact the furnisher, right?

21 A. (No audible response.)

22 Q. Okay. But if a consumer disputes to
23 Equifax and then Equifax contacts the furnisher,
24 then we have both the Equifax and the furnisher

1 investigating that dispute, right?

2 MS. ROPER: Objection to form, argumentative,
3 asked and answered.

4 BY THE WITNESS:

5 A. In your hypothetical, yes. But the
6 reality is then, you know, it's the question is
7 whether or not there's -- you know, in my mind a
8 cost or benefit, and having the consumer, you know,
9 contact the inquirer and having Equifax contact the
10 inquirer, I don't see, you know, why that's more
11 beneficial than having the consumer directly
12 contacting. And again I can see reasons why it's
13 less efficient because you can end up ping-ponging
14 with three parties instead of ping-ponging with two
15 parties.

16 BY MR. SOLA:

17 Q. Well, if the consumer's dispute to
18 Equifax is sent to the furnisher --

19 A. No, the inquirer.

20 Q. Well, okay. The inquirer. But they --

21 A. Which may not be a furnisher, right, I
22 mean, that's --

23 Q. Well, they furnish --

24 A. And your named plaintiffs, that --

1 Q. Again, it's --

2 A. -- that's clear --

3 Q. -- semantics.

4 A. No, it's not. It's actually a very
5 significant distinction I beg to differ. The named
6 plaintiffs -- DirecTV and DISH Network are not
7 furnishers, they're not, they're inquirers. That's
8 a significant difference.

9 Q. They furnished the inquiry information
10 though?

11 A. They didn't furnish the inquiry
12 information. They made an inquiry.

13 Q. Okay. Well, again --

14 A. The fulfillment of that inquiry was
15 recorded by Equifax. They didn't furnish the
16 inquiry information.

17 Q. They sure did. Their name's on it --

18 A. They --

19 Q. -- right, it --

20 A. -- made it --

21 Q. Don't they provide the name and address
22 that's on the inquiry?

23 A. They made an inquiry, you're absolutely
24 right, but they didn't furnish the inquiry

1 information.

2 Q. Did they provide the name and address --

3 A. They --

4 Q. -- for the company --

5 A. They --

6 Q. -- that's on the inquiry?

7 A. They initiated an inquiry on behalf of a
8 data subject.

9 Q. Okay. Sir --

10 A. But that's not --

11 Q. -- but when they make the inquiry --

12 A. Furnished information.

13 Q. You agree that when a company makes an
14 inquiry, it provides Equifax with its business name?

15 A. Yes.

16 Q. And that's the name that's on the credit
17 report as the inquiring company?

18 A. I don't think that's what's being
19 disputed.

20 Q. Okay.

21 A. I think what's being disputed is the
22 ownership of that information. And again that's not
23 going to be more -- more efficiently resolved by
24 channelling everything through an intermediary; in

1 this case, Equifax.

2 Q. They're not the intermediary, they're the
3 company reporting it.

4 A. They would be an intermediary if it was
5 all, you know, in an e-OSCAR context.

6 Q. All right. You think that consumers that
7 want to dispute inquiries on their Equifax credit
8 report should not even contact Equifax and instead
9 contact the inquiring entity?

10 MS. ROPER: Objection, misstates his
11 testimony.

12 BY THE WITNESS:

13 A. So again I feel that there is a benefit
14 from contacting Equifax or any CRA if you believe
15 there is an inaccuracy in your inquiry. And again
16 depending on the nature of the dispute and the
17 substantiating evidence, it may be just a one step
18 process, you provide documenting evidence to
19 substantiate your claim, the inquiry is deleted. It
20 may be entirely unnecessary. The other aspect is,
21 you know, in the case of a mixed file with
22 substantiating evidence, it might be deleted as
23 well. And there are again other situations and
24 scenarios where simply contacting Equifax or any

1 nationwide CRA will result in the appropriate
2 outcome if, in fact, the information is deemed to be
3 inaccurate. But, you know, it just -- if the --
4 there's no supporting evidence, the benefit the
5 consumer gets is the contact information of the
6 inquirer and the direction instruction to contact
7 them and find out if something genuinely is amiss as
8 opposed to, gee, I have a store card with Target
9 that's underwritten by HSBC, and I just didn't
10 recognize HSBC. So, no, I disagree with the
11 statement that they shouldn't contact Equifax.

12 BY MR. SOLA:

13 Q. Okay. So you agree that they should?

14 A. Sure.

15 Q. But you don't agree that Equifax should
16 reinvestigate the inquiry the same way they would
17 reinvestigate an account?

18 MS. ROPER: Objection, asked and answered,
19 calls for a legal opinion.

20 BY THE WITNESS:

21 A. I have mentioned a number of times the
22 critical distinguishing factor is the endogeneity of
23 the inquiry data versus furnished data. And I
24 believe that is a first step. Their recognition of

1 the fact that it's a factual record of access or
2 again if it's fraudulent or mixed file with
3 appropriate supporting evidence or a broader
4 context, the person has a history of fraudulent
5 activity on their account or past history of mixed
6 files, the -- that, yes, those policies and
7 practices are absolutely appropriate.

8 BY MR. SOLA:

9 Q. Okay. Now, let me see if I understand.
10 Are you saying that the reason you think that the
11 reinvestigation process for accounts should be
12 different than for inquiries is because you want
13 deem how that information originated?

14 MS. ROPER: Objection, misstates his
15 testimony.

16 BY THE WITNESS:

17 A. Yeah, so --

18 BY MR. SOLA:

19 Q. In other words, that the inquiry you
20 consider endogenous and the account you don't --

21 A. Correct.

22 Q. -- is that a fair summary?

23 A. Yeah, I think that's fair, yeah.

24 Q. Any other reason why you think that the

1 dispute resolution procedure should be different?

2 MS. ROPER: Objection, calls for a legal
3 opinion, asked and answered.

4 BY THE WITNESS:

5 A. Yeah, no, I'm not -- I think I've been
6 very clear in my report and the discussion earlier
7 and we've belabored that point a lot, so yes.

8 MS. ROPER: Robert, at a good point, can I
9 just take like a two-minute --

10 MR. SOLA: Yeah.

11 MS. ROPER: -- bathroom break?

12 MR. SOLA: Let's take a two-minute break.

13 (WHEREUPON, a recess was had from
14 2:41 p.m. to 2:46 p.m.)

15 BY MR. SOLA:

16 Q. All right. Would you agree that hard
17 inquiries can never have a positive impact on a
18 consumer's credit score?

19 A. In the United States, I think that never
20 a -- yeah, I would say that's true.

21 Q. Okay. And would you agree -- or yeah
22 would you agree they could never have a positive
23 impact in a creditor's assessment of that consumer's
24 creditworthiness?

1 A. Yeah, let me -- let me retract that
2 statement. I can't. I mean, based on my experience
3 in Australia and New Zealand and the use of inquiry
4 for scoring in a positive manner, it's possible that
5 some lender in the United States could have a
6 methodology that would integrate inquiries in a
7 positive manner. So I don't want to say it's
8 impossible. I don't want to say that at all. It's
9 unlikely and probable but not impossible.

10 Q. Okay. I'm not clear. My first question
11 was about score, and my second question was about
12 creditworthiness, so I didn't understand what your
13 retraction was.

14 A. So to my earlier answer, I would retract
15 an earlier answer regarding scores. It's possible
16 that a lender could have a score card, a proprietary
17 score card, think file or, you know, someone with a
18 damaged credit history that would factor in
19 inquiries in a positive manner. It's possible.

20 Q. Okay. But you're not --

21 A. It's not --

22 Q. It's safe to say you're not aware of any
23 scoring models in which a hard inquiry would have a
24 positive impact on the score?

1 A. Not in the United States, I'm not aware.

2 You know, the question was, was it possible, so --

3 Q. Okay. Then my second question was about,
4 do you agree that hard inquiries would never have a
5 positive impact on a creditor's assessment of
6 creditworthiness in the United States?

7 A. Again, I think it depends. I mean, if
8 you're looking at a manual in the writing process, I
9 can envision a scenario whereby a loan officer might
10 look at a competitive shopping or comparative
11 shopping for an auto or mortgage loan is being
12 credit responsible and, in fact, consider that good
13 behavior, and it could have a positive impact. So I
14 mean, yeah.

15 Q. Okay. You don't know the effect that the
16 hard inquiries that were dispute by Mr. Steed and
17 Ms. Summers had on their credit scores, right?

18 MS. ROPER: Objection, asked and answered,
19 beyond the scope.

20 BY THE WITNESS:

21 A. Yeah, I did not see the credit reports of
22 the named plaintiffs. All I had was the information
23 that I was able to glean from the depositions and
24 the complaint.

1 BY MR. SOLA:

2 Q. All right. So I don't know if I got a
3 yes, but I think that's what you were trying -- in
4 other words, you don't know the impact of the
5 disputed inquiries on the credit scores of Mr. Steed
6 and Ms. Summers, right?

7 MS. ROPER: Same objections.

8 BY THE WITNESS:

9 A. I mean, again, and not to be difficult,
10 but there were assertions made by named plaintiff
11 Steed that she may have been denied for a credit
12 card in 2012 and then in 2011 when she and her
13 husband jointly applied to refinance their mortgage
14 loan that he orally cited a frequent -- or the
15 number of hard inquiries as a reason why they didn't
16 receive the terms that they had hoped to receive.
17 So, you know, I'm inferring that they believe at
18 least that there was some effect in reduction of
19 their score. But I don't know again the specific
20 impact, because I didn't see that information. But
21 I don't think it was necessary.

22 BY MR. SOLA:

23 Q. Okay. And that statement that
24 Ms. Summers relaid about being told that the number

1 of inquiries affected -- well, I can't remember how
2 you stated it -- but affected their
3 creditworthiness, is that fair to say? That would
4 be -- that's -- as we've already discussed,
5 inquiries can have that negative effect, right?

6 A. As we've discussed, inquiries can have no
7 effect at all and can have a negative effect and it
8 can have an effect, a reduction on a score that has
9 absolutely no material effect on your credit
10 standing.

11 Q. Okay. So in other words, you can't say,
12 oh, no, no lender could say that because it's
13 impossible?

14 A. No lender could say what?

15 Q. That the hard inquiries effected the rate
16 that they're going to get?

17 A. I would never say that.

18 Q. Okay.

19 A. I never have said that.

20 Q. No, I understand. Because it is possible
21 that the hard inquiries did affect the rate, right?

22 A. Yes.

23 Q. Do you think there's too much automation
24 in the dispute resolution process with CRAs?

1 MS. ROPER: Objection to form, beyond the
2 scope, argumentative.

3 BY MR. SOLA:

4 Q. And I mean too much that it diminishes
5 the effectiveness of determining whether disputed
6 information is accurate?

7 MS. ROPER: Objection to form, argumentative,
8 beyond the scope.

9 BY THE WITNESS:

10 A. So our empirical study of the dispute
11 resolution process generated very favorable
12 impressions from the disputants. There was an above
13 90 percent satisfaction with the process that
14 involved an automated platform in the form of
15 e-OSCAR, so I don't see evidence from our study or
16 from the FTC study that automation is too much or is
17 inefficient or is not serving disputants' or
18 consumers' interests in that regard.

19 BY MR. SOLA:

20 Q. Okay. So you're saying your study
21 indicated that approximately 90 percent of consumers
22 were satisfied with the results of their disputes?

23 A. Yes, above 90, yes.

24 Q. Above 90. And thus you're -- so

1 you're -- well, you consider that satisfactory?

2 A. A 90 percent approval rating, are you
3 kidding me? That's great. Very few things in life
4 have 90 percent approval rating, yeah, that's
5 fantastic.

6 Q. Really? You don't think that it should
7 be --

8 A. Marriage only has 50 percent, I mean --
9 seriously, right, that's a high number. Not to
10 belittle it, but that's a very high number.

11 Q. Really? You don't think it should be
12 100 percent?

13 A. I mean, if we keep using normative
14 things, yes, there should be no murder, there should
15 be no crime, everyone should treat their neighbors
16 the way they want to be treated themselves and, you
17 know, and it should be 100 percent accurate. But
18 that's practically -- that's totally unreasonable
19 and impossible. I mean, that's just -- and it's not
20 the objective of anything we're trying to do here.

21 Q. Well, it --

22 A. That's a completely unreasonable
23 standard, I'm sorry, but like -- you know, it is.

24 Q. Okay. So wait a minute --

1 A. I mean, should --

2 Q. -- you said it's not the objective?

3 A. Should. Should.

4 Q. But, I mean, you're saying it's not --
5 let's just see. Wouldn't it be a responsible CRA's
6 objective to have 100 percent satisfaction with the
7 results of its disputes?

8 MS. ROPER: Objection, argumentative,
9 misstates his testimony, calls for a legal opinion.
10 BY THE WITNESS:

11 A. Yeah, I don't know what ben -- yeah,
12 every firm wants 100 percent satisfaction and every
13 firm wants 100 percent market share. Can't have the
14 two. So, you know, I mean --

15 BY MR. SOLA:

16 Q. Do you think it would be -- it's
17 acceptable, let's say, that the ten percent that
18 weren't satisfied was because inaccurate information
19 did not get deleted, do you think it's acceptable
20 that ten percent of inaccurate information that's
21 disputed doesn't get deleted?

22 MS. ROPER: Objection, argumentative, asked
23 and answered, calls for a legal opinion.

24

1 BY THE WITNESS:

2 A. Yeah. First of all, let me dissect that.
3 The 90 percent who were satisfied, that doesn't mean
4 that their modifications or, you know, whatever it
5 was they were contesting, and it may not be
6 necessarily inaccurate information, they may have
7 contested accurate information and then been
8 satisfied that that was removed. But, you know,
9 they could have been satisfied with, oh, you know, I
10 discovered that my Target card was actually
11 underwritten by HSBC or I learned something that I
12 didn't know before or I had a positive experience.
13 I mean, there are different reasons for
14 satisfaction. Similarly, there are different
15 reasons for dissatisfaction. People had
16 modifications who weren't satisfied and it could
17 have been just because they thought the person was
18 rude to them or they could have been having a bad
19 day.

20 BY MR. SOLA:

21 Q. Okay. But that wasn't my question.

22 A. So, no, but you're drawing an entirely
23 inaccurate conclusion from satisfaction rates.
24 You're saying that the ten percent who were

1 dissatisfied didn't have -- or inaccurate
2 information removed. And that you want -- that's a
3 complete non sequitur.

4 Q. Okay. But, you know, you've testified
5 that PERC -- part of PERC wants to make -- bring
6 people into the financial world, right, get people
7 able to get credit without going to payday lenders,
8 and you said part of that is increasing the amount
9 of information that might help them access credit,
10 right?

11 A. Correct. Predictive information.

12 Q. Okay. And so if somebody that's looking
13 at the credit industry and credit reporting, what
14 percentage of information that's inaccurate that's
15 disputed do you think should be removed as a goal
16 for Equifax?

17 MS. ROPER: Objection, argumentative, calls
18 for a legal opinion, misstates his testimony, asked
19 and answered.

20 BY THE WITNESS:

21 A. Yeah, I mean, look, again if you're --
22 I'll cede you that aspirationally everything should
23 be perfect.

24

1 BY MR. SOLA:

2 Q. No, but I mean -- I'm just saying also
3 but based on --

4 A. That's what you just said though.

5 Q. No, but you think 90 percent's --

6 A. Should I --

7 Q. -- satisfactory --

8 A. Goal.

9 Q. -- let's say it's 90 percent. Is -- from
10 your perspective as an expert, do you go home at
11 night and say I think 90 percent is the best we can
12 do?

13 MS. ROPER: Objection, argumentative,
14 misstates his testimony, calls for a legal
15 opinion --

16 BY MS. ROPER:

17 Q. No, I'm just --

18 MS. ROPER: -- asked and answered.

19 BY MR. SOLA:

20 Q. -- asking if 90 percent was the --

21 A. 90 percent if my -- if my client approval
22 rating and supporter approval rating were
23 90 percent, I'd be very happy. You know, it's
24 just -- I mean, I live in the real world, and you

1 can't please everybody all the time.

2 Q. Really, sir, because, you know, if one
3 out of ten of my clients was not happy with my
4 service, I'd feel terrible.

5 A. Well, you should check your online
6 rating, because it's a seven out of ten, so you
7 should work harder. I don't know. I mean, I'm glad
8 you feel terrible.

9 Q. No, I don't know what you're referring
10 to. I don't -- I don't know what you're referring
11 to, sir.

12 A. Okay. All right.

13 Q. So you're saying Equifax should be
14 satisfied if they can correct 90 percent of the
15 dispute errors?

16 MS. ROPER: Objection -- hold on a second
17 Mr. Turner.

18 Objection, argumentative, asked and
19 answered, calls for a legal opinion, misstates his
20 testimony.

21 BY THE WITNESS:

22 A. You're convoluting statements and
23 twisting them. I guess it's that time of the day.
24 What I said was that 90 percent of the participants

1 in our research who disputed different data
2 elements, header information, account information
3 with any of the CRAs reported that they were
4 satisfied with their experience.

5 BY MR. SOLA:

6 Q. Okay. And --

7 A. That you cannot, therefore, conclude that
8 ten percent of disputed inaccurate information is
9 not modified or corrected. The two have nothing to
10 do with one another.

11 Q. Okay. But you're talking about this
12 study that was funded by the credit reporting
13 agencies, is that what you're referring to?

14 A. Oh, sure, but I -- yes, and --

15 Q. Okay.

16 A. -- yes, that's fine.

17 Q. All right.

18 A. Yes.

19 Q. All right. And that 90 percent figure --

20 A. So we are at that time of day.

21 Q. -- that wasn't found by the FTC, was it?

22 A. I'm not aware that they queried the
23 participants for satisfaction with the mod -- the
24 dispute resolution rate. We did that as an

1 extension of our research.

2 Q. Does Equifax need TransUnion or
3 Experian's permission to change its reinvestigation
4 procedures?

5 MS. ROPER: Objection, lacks foundation,
6 argumentative, assumes facts not in evidence.

7 BY THE WITNESS:

8 A. Are we talking about any reinvestigation
9 or --

10 BY MR. SOLA:

11 Q. Yeah, well --

12 A. Do you want to narrow it to inquiries or
13 what's the --

14 Q. Well, in paragraph 41, you say there
15 would be substantial costs at the CRAs associated
16 with getting industry consensus on the definition --

17 A. Sorry, what paragraph?

18 Q. Paragraph 41. And I guess what I'm --

19 A. 41.

20 Q. And it sounds to me like you're saying
21 Equifax can't do this without Experian and
22 TransUnion's permission. Maybe I'm misreading that.
23 But the word consensus means that the three agree.
24 And I don't understand why that would be required.

1 A. Yeah. I think the context in which I was
2 discussing this was my interpretation of the
3 solution that you all have offered in terms of the
4 modifying e-OSCAR. And so modifications to e-OSCAR,
5 if we're going to fold inquiry dispute resolution
6 into e-OSCAR, would require a consensus.

7 Q. Okay. You know, the --

8 A. Because the first sentence there, in
9 addition to implementing the solution proposed by
10 the plaintiffs, so that's what I'm referring to, the
11 e-OSCAR bit, yeah.

12 Q. Yeah, okay. You read the complaint. I
13 don't -- I don't see anything -- any mention of
14 e-OSCAR in that at all.

15 A. Okay. So what I can do is I can get back
16 to you with cites where you in various points in
17 time and Evan Hendricks also, your expert witness,
18 suggests that this could be simply handled by
19 modifying e-OSCAR and including this into that
20 process. And even in the questions today, you've
21 certainly alluded to that fact.

22 Q. No, I understand, because e-OSCAR's a
23 system --

24 A. Okay.

1 Q. -- you use, right?

2 A. Well, so that's all I'm -- that's all I'm
3 referring to.

4 Q. Okay. I mean, Equifax designed e-OSCAR,
5 right?

6 A. So do you not agree that you would think
7 that e-OSCAR could be modified in a way to
8 facilitate this?

9 Q. We are asking questions about e-OSCAR
10 because that's the system that you folks -- that the
11 defendant has, so we are asking questions about
12 that?

13 A. Okay. And I'm responding --

14 Q. I don't --

15 A. I'm responding --

16 Q. I don't see --

17 A. -- to those.

18 Q. -- any proposal from Ms. Summers and
19 Mr. Steed that -- that's what I just don't
20 understand.

21 All right. So you're saying if it's an
22 e-OSCAR change, then Equifax would have to get
23 consent from TransUnion and Experian?

24 A. Yeah, I don't think they can

1 unilaterally --

2 Q. Okay.

3 A. -- change the platform without the
4 consensus of the other stakeholders.

5 Q. All right. But, of course, for most of
6 Equifax's existence, they didn't use e-OSCAR to
7 investigate, did they?

8 A. But they do now.

9 Q. I understand.

10 A. Okay.

11 Q. But for decades, they went on their own
12 and didn't do something that was also approved by
13 TransUnion and Experian, right?

14 A. Absolutely.

15 Q. Right. And they went to the e-OSCAR
16 system because it was cheaper, right?

17 MS. ROPER: Objection to form, assumes facts
18 not in evidence, argumentative.

19 BY MR. SOLA:

20 Q. Wasn't it then sending paper, CDBs?

21 A. Well, so they went to this to facilitate
22 to take advantage of new technologies that allow for
23 scaled communications, and it's just a more
24 practical and cost-effective and comprehensive

1 solution, so there are a whole variety of reasons
2 why all of them would have migrated from antiquated
3 paper-based systems to an electronic system.

4 Q. It also requires less labor than having
5 the old system, doesn't it?

6 MS. ROPER: Objection, argumentative, beyond
7 the scope, asked and answered.

8 BY THE WITNESS:

9 A. You know, that's I think a universal
10 truism of automation, yes, just with robots and auto
11 manufacturing facilities. It doesn't mean the cars
12 aren't as good, just fewer people.

13 BY MR. SOLA:

14 Q. Uh-huh. And you don't believe that if
15 Equifax contacted the furnish -- we'll call them the
16 inquirer about a disputed inquiry, that would result
17 in less credit available to consumers, do you?

18 MS. ROPER: Objection, argumentative, assumes
19 facts not in evidence, misstates his testimony.

20 BY THE WITNESS:

21 A. Yeah, so that that -- those two are what
22 I represent. The scenario where I discussed about a
23 potential contraction of credit was one whereby the
24 e-OSCAR advocates wouldn't necessarily need to

1 exhort inquirers that aren't furnishers into
2 uptaking that system, and they could decide that the
3 costs potentially in -- you know, specifically the
4 liability costs were excessive and exceeded any
5 benefits and would resort to other means for either
6 mitigating risk or ascertaining risk.

7 BY MR. SOLA:

8 Q. All right.

9 A. And that would, in fact -- and that's
10 supported by empirical and theoretical economic
11 literature -- absolutely result in a credit
12 contraction, it would result in more risky loans
13 being made because of the risk premium, would
14 attract riskier borrowers and would have a
15 degradation on access to credit, especially for
16 lower income Americans, younger Americans, elderly
17 Americans and members of protected classes,
18 absolutely.

19 BY MR. SOLA:

20 Q. Okay, wait. You're saying all that would
21 happen if Equifax contacted the inquirer in regard
22 to a dispute of an inquiry?

23 MS. ROPER: Objection, that misstates his
24 testimony.

1 BY MR. SOLA:

2 Q. Okay. That was my question.

3 A. I disagreed with your framing and I said
4 my reference to the contraction of credit was
5 specific to the scenario that I specify in my
6 report.

7 Q. Okay.

8 A. You're misstating what I said.

9 Q. No, no, I'm just asking my question. You
10 went -- my question was simply you believe that if
11 Equifax contacted the furnisher in regard to a
12 disputed inquiry, that would result in less
13 availability of credit?

14 MS. ROPER: Objection, misstates his prior
15 testimony, asked and answered.

16 BY THE WITNESS:

17 A. So what's not captured in court reports
18 is tonality and questions and pitch, which implies
19 certain things. So when I interpret something
20 you're saying as a reference to something because of
21 your pitch and the uptake, then, you know, I -- if
22 I'm misinterpreting, I apologize.

23 BY MR. SOLA:

24 Q. Okay. But that's my question.

1 A. But it seems to me like you were trying
2 to state something from my report, and it was not an
3 accurate representation of what I stated.

4 Q. Okay. Well, let me restate it.

5 A. Okay.

6 Q. Okay. Because I'm not saying -- all I'm
7 doing is asking the question: Do you believe that
8 if Equifax contacted the inquirer in regard to a
9 dispute of an inquiry, that would decrease the
10 amount of credit available?

11 A. It's possible. I mean, it could be the
12 case that given the volume, particular inquirers
13 could determine that the customer service and IT
14 costs for handling that, you know, from Equifax, I
15 don't know, it's possible they could determine that,
16 gee, what Equifax is suggesting by having the
17 consumers contact them directly currently could be
18 too onerous, and it might deter some from using
19 credit files because of that cost, it's possible.

20 Q. No, that's what I was going to say. So
21 that the same could result could happen if the
22 consumers did what Equifax said and contacted those
23 inquirers directly?

24 A. It could, yeah.

1 Q. Okay. But Equifax -- well, okay.

2 Now, but, of course, if we remove
3 inaccurate inquiries from credit reports, then the
4 system benefits, the whole credit industry benefits,
5 correct?

6 A. There would be benefits to removing
7 inaccurate information, absolutely.

8 Q. Okay. Okay. Paragraph 46. All right.
9 You say neither of the named plaintiffs asserts
10 actual damages linked to the inclusion of disputed
11 inquiries. But I believe you said you read that
12 Ms. Summers said that they were told they were
13 paying a higher interest because of the inquiries.

14 A. She believes that.

15 Q. Okay. So --

16 A. But she's not -- she's not asserting it,
17 she's not filing those damages, she's not filing for
18 credit damages. Am I incorrect in that? Are you
19 suing Equifax for damages in their re-fi? I mean,
20 if that were the case, I'd certainly want to see
21 more evidence, but I mean --

22 Q. Okay. So when you say asserts actual
23 damages, you mean seeking those damages in this
24 lawsuit?

1 A. Right. Yes.

2 Q. Okay. I just wanted to be clear on that.
3 And by -- let's -- by actual damages, what do you
4 mean?

5 A. Well, I like to operate in the realm of
6 measurables, so in this case, you know, a denial of
7 credit would be a damage. Any adverse action under
8 the FCRA would be a damage. You know, foreclosure
9 of economic opportunity would be a damage. Those
10 are the damages to which I could speak to. I know
11 that evens asserted potential emotional or
12 psychological damages. I can't speak to that. I
13 find that highly implausible but you know it's
14 possible. You know there's certain categories of
15 damages which people could assert. I'm speaking
16 purely to economic and credit damages.

17 Q. All right. And I guess in answer to the
18 question do you consider having an inaccurate
19 inquiry reported to a company you're seeking credit
20 with is actual damages, you would say it depends?

21 A. Yes.

22 Q. We've learned something over five hours.
23 Okay. And you would say the same thing in terms of
24 having a fraudulent account reported to a person

1 assessing your credit report, that whether you're --
2 you suffered actual damage as you understand it
3 would depend?

4 A. Yes.

5 Q. And, in fact, any item of information on
6 your credit report in your view may not cause you
7 damage even if it's wrong and negative?

8 A. We discussed that early on about
9 scenarios under which the inclusion of inaccurate
10 information could improve your credit score and
11 improve your credit standing and conceivably benefit
12 you in that context, yes. And there was a whole
13 industry on that with the authorized users and
14 people selling access to their long time established
15 accounts to again game the system to improve their
16 credit score. And that's including inaccurate
17 information.

18 Q. Now you'd agree that even consumers let's
19 say that only have a small amount of harm from
20 inaccurate information on their credit report, they
21 should still be able to get that inaccurate
22 information removed, right?

23 A. Well, again I don't understand what you
24 mean by small amount of harm. I mean, are you

1 talking about an immaterial negligible credit score
2 change? I mean, you know, any person should have
3 the right to contest any piece of information or
4 data element on their credit file that they perceive
5 to be inaccurate, yes.

6 Q. All right.

7 A. Whether they're harmed or not.

8 Q. And as every person should have the right
9 to inaccurate information investigated to determine
10 if it's accurate, right?

11 MS. ROPER: Objection, calls for a legal
12 opinion.

13 BY THE WITNESS:

14 A. As I've mentioned before, the steps and
15 processes that are in place by Equifax dealing with
16 a factual record of access constitute this. I mean,
17 it's on your credit file if you're providing
18 information about mixed file or fraud, it can be
19 deleted. If not, then that's something where, you
20 know, another step is required.

21 BY MR. SOLA:

22 Q. Okay. Now you -- page 27, paragraph 49,
23 just after footnote 31. You say the FTC study found
24 just over 1 percent of credit reports examined

1 contain disputed inquiries hard and soft that were
2 modified.

3 A. Correct.

4 Q. Okay. And you would agree that the
5 number of inquiries that are disputed inquiries that
6 are modified depends on the procedures that the
7 credit bureaus follow in addressing those disputes?

8 MS. ROPER: Objection to form, argumentative.

9 BY THE WITNESS:

10 A. Yes, the procedures would --

11 BY MR. SOLA:

12 Q. Yeah?

13 A. -- bear on that.

14 BY MR. SOLA:

15 Q. Let's say it's 1 percent for Equifax,
16 okay?

17 A. Okay.

18 Q. Okay. You'd say that's based on the
19 procedures that they have for modifying disputed
20 inquiries?

21 A. Yes.

22 Q. Okay. And if those procedures were
23 different, the number could be higher, right?

24 A. I mean, yeah, if they just deleted

1 inquiries that were disputed as they did in 2008,
2 2009, that number might be much higher, yes.

3 Q. Okay. Or if they contacted the inquirer,
4 the number might be much higher too?

5 A. It may or may not be. It may be simply
6 because the inquirer -- the inquirer has a policy of
7 just not dealing with disputes and deleting it. It
8 doesn't necessarily mean that it was inaccurate. I
9 mean, again, I think it's important to point out
10 just because something's disputed doesn't mean it's
11 inaccurate, and just because something is deleted
12 also doesn't mean it was inaccurate.

13 Q. Yeah, you know, you've referenced that a
14 couple times with these creditors or furnishers just
15 not wanting to even do an investigation and just
16 delete the information. What companies are you
17 talking about?

18 A. Well, there are -- you know, there are
19 lenders that are asking for the deletion of --

20 Q. No. No, I'm sorry to cut you off. No,
21 I'm talking about when they get a notice of dispute
22 from a CRA --

23 A. Right.

24 Q. -- are you -- can you name me a company

1 that won't investigate, will simply tell the CRA
2 just delete that?

3 A. No. But that doesn't mean they don't
4 exist. I mean, it's a well-known fact.

5 Q. No, I know. I want to find out who they
6 are.

7 A. Yeah.

8 Q. You know, because I think it's
9 deplorable.

10 A. Right. And they -- it's just something
11 that, I mean, to the extent that I'm a trusted third
12 party, there are limits of being a trusted third
13 party, right, and those are usually --

14 Q. Okay.

15 A. -- you know, with --

16 Q. Okay.

17 A. So sorry, yeah.

18 Q. But you agree that's wrong?

19 A. It is wrong.

20 Q. Yeah. They should determine if the
21 information is accurate or not, right?

22 A. I'm just responding to the figure in the
23 study --

24 Q. Okay.

1 A. -- and, you know, making sure that it's
2 interpreted correctly, that's all. I'm not speaking
3 to practices. And I agree with you, it's a
4 deplorable practice. It's lazy.

5 Q. Okay. Paragraph 51, now you -- the
6 second sentence, you say, as such, hard inquiries
7 resulting from fraud can be a very useful to
8 consumers as an early warning for ID theft/fraud,
9 right? And I guess what you're saying is if they
10 see an inquiry that they don't recognize, that could
11 point to them, oh, someone might be out there trying
12 to get credit in my name --

13 A. Yeah.

14 Q. -- right?

15 And that's just true with accounts that
16 come on their credit report, they see an account
17 that they didn't open, that they might think they're
18 a victim of identify theft?

19 A. That's -- that's, I mean, one of the
20 reasons that I've been arguing why non-financial
21 data should be important -- included --

22 Q. Okay.

23 A. -- because frequently identity thieves
24 will steal an identity and rent an apartment and

1 open up utilities in that person's name, and they
2 would actually see that and be able to nip that
3 problem in the bud before it escalated to new
4 account fraud --

5 Q. All right. Then --

6 A. -- financial fraud.

7 Q. Okay. And then the next sentence, you
8 say, As such, the fact that inquiries that result
9 from fraud appear on a consumer's credit report
10 really should not be considered an error in the same
11 way that an incorrect inquiry resulting from mixed
12 file might appear on a consumer's credit report. I
13 know you qualified that when you say -- you compared
14 the mixed file. But you agree that an inquiry
15 resulting from fraud is inaccurate?

16 A. Yeah. No, I'm just saying there's a --
17 there's a benefit in terms of alerting the consumer
18 to take other steps.

19 Q. Okay. And one of those steps --

20 A. I'm not saying that it shouldn't be
21 deleted. I'm saying, you know, if it's proven to be
22 inaccurate from fraud, I'm saying that, you know,
23 it's -- you know, it's a little bit -- there's a
24 benefit to it. It's just -- it's a very small

1 point.

2 Q. Okay. But you're talking on the report
3 that goes to the consumer, right?

4 A. Correct.

5 Q. Okay. In which case -- and maybe you're
6 not aware, again in legal. The inquiries have to be
7 reported, are you aware of that?

8 A. I'm sorry?

9 Q. When the -- when a consumer asks for
10 their credit file --

11 A. Right.

12 Q. -- okay, Equifax has to tell them the
13 inquiries? I don't know if you're aware of that.

14 A. No, I'm sorry, when a consumer --

15 Q. Asks for --

16 A. -- asks for --

17 Q. -- their credit --

18 A. When I --

19 Q. -- file --

20 A. I think you're talking about a DTC credit
21 report.

22 Q. Oh, I'm talking -- yes.

23 A. Okay.

24 Q. Direct to consumer credit report?

1 A. Yeah. And then you have hard and soft
2 inquiries --

3 Q. That's right.

4 A. -- reported, yeah.

5 Q. Yeah. Those have to be on there, I don't
6 know if you're aware --

7 A. No, I'm aware of that, yeah.

8 Q. Okay. They don't have to be on the third
9 party reports, you agreed to that, the inquiries?

10 A. The soft inquiries don't go, the hard
11 inquiries are on the credit file that goes to the --

12 Q. Third party?

13 A. Correct.

14 Q. But they don't have to be?

15 MS. ROPER: Objection to the extent it calls
16 for a legal conclusion.

17 BY THE WITNESS:

18 A. Yeah, I'm unaware of a legal obligation
19 to include them. I'm not a legal expert but --

20 BY MR. SOLA:

21 Q. Yeah.

22

23

24

1 A. -- what I'd suggest is there are market
2 reasons for them to be included because they're
3 predictive variables.

4 Q. Oh, no, I agree. We both just talked
5 about that --

6 A. Right.

7 Q. -- why they're on there.

8 A. Right.

9 Q. Okay. All right. Then -- okay. Then
10 the last sentence, that I have to ask you about. So
11 one would not want inquiries resulting from fraud
12 not to show up on credit reports. I've got to
13 assume you're meaning the report direct to the
14 consumer?

15 A. Yeah, right.

16 Q. Okay.

17 A. Yes.

18 Q. You agree they should not show up on
19 reports to third parties?

20 A. Correct. I mean, once it's been
21 established that they're inaccurate if it's a
22 fraudulent and inaccurate piece of information, then
23 any piece of information or data element, you
24 wouldn't want that going to -- into the eligibility

1 determination process, whether it's a credit or
2 otherwise.

3 Q. Okay.

4 A. But, yes, I'm just suggesting that the
5 DTC, and that's -- I should have put a
6 qualification --

7 Q. DTC is direct to consumer?

8 A. Right. Yes.

9 Q. Okay. Okay. Then at the -- paragraph 52
10 ends with a statement. I don't want to read the
11 whole thing, but you say one is hard pressed to
12 understand the merits of plaintiffs' case. And I
13 assume by merits, you're not talking about legal
14 merits there, you're talking about something else?

15 A. Yes, right.

16 Q. Okay. And you're not -- yeah, so you're
17 not talking about whether plaintiffs have a viable
18 claim for violation of the Fair Credit Reporting
19 Act?

20 A. No. I'm referring to what I've
21 consistently talked about in the report about a
22 suggestion that a whole scale systemic reform of the
23 industry's dispute resolution process regarding hard
24 inquiries is necessitated by evidence presented in

1 this case.

2 Q. Okay. And then your last sentence, you
3 end it saying, a beneficial outcome for any party
4 resulting from plaintiffs' proposed solution is
5 impossible to establish and defend either by logic
6 or fact. Okay. And by party, who do you mean?

7 A. The varying stakeholders in the data
8 credit information sharing system, the data subject,
9 the inquirer and the credit bureaus.

10 Q. Okay. And by proposed solution, do you
11 mean investigating disputed inquiries through
12 e-OSCAR?

13 A. Yes, that's correct.

14 Q. Okay. And just that?

15 A. Correct.

16 Q. Okay. And then to defend either by logic
17 or fact, but that's your logic, right?

18 A. I mean, I use my logic, yes.

19 Q. Okay. And then you're not addressing
20 legal requirements there, are you?

21 A. No.

22 Q. Okay. Is it your opinion that inquiries
23 that resulted from identify theft should be reported
24 to third parties after a consumer has notified

1 Equifax that the inquiry resulted from identify
2 theft?

3 MS. ROPER: Objection, asked and answered,
4 misstates his prior testimony, calls for a legal
5 opinion.

6 BY THE WITNESS:

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 Q. One last question. Are you aware that
21 Equifax can't consider a dispute frivolous or
22 irrelevant and then not have to act on it?

23 MS. ROPER: Objection, assumes facts not in
24 evidence, beyond the scope, calls for a legal

1 opinion.

2 BY THE WITNESS:

3 A. Yeah, I'm familiar with this topic from
4 the perspective of work I've done looking at CROA
5 and, you know, the volume of disputes that come in
6 from credit clinics that again are attempts to game
7 the system and determinations can be made if certain
8 disputes meet certain criteria to deem them as
9 frivolous, yes.

10 BY MR. SOLA:

11 Q. Okay. And you agree that's an effective
12 way for Equifax to deal with disputes from
13 unscrupulous credit clinics or consumers?

14 A. I think --

15 MS. ROPER: Objection, argumentative, beyond
16 the scope, calls for a legal opinion.

17 BY THE WITNESS:

18 A. You know, I think absent more effective
19 enforcement of existing laws, that's probably the
20 best recourse open to Equifax and other credit
21 bureaus.

22 MR. SOLA: Okay. That's all the questions I
23 have.

24 MS. ROPER: I have no questions. And

1 Mr. Turner will read and sign.

2 MR. SOLA: Okay. I've got to run. Thank
3 you.

4 (WHEREUPON, at 3:22 p.m. the
5 deposition concluded.)

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